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1 STATE OF CALIFORNIA
2 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
3 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
4 AGENDA BRIEFING WORKSHOP
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7 JOE SERNA JR. CalEPA BUILDING
8 CENTRAL VALLEY AUDITORIUM
9 1001 I STREET, SECOND FLOOR
10 SACRAMENTO, CALIFORNIA
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16 WEDNESDAY, JUNE 13, 2001

17 9:30 a.m.
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 APPEARANCES

2 BOARD MEMBERS PRESENT:

3 LINDA MOULTON-PATTERSON, Chair

4 DAN EATON

5 STEVEN R. JONES

6 JOSE MEDINA

7 MICHAEL PAPARIAN

8
9 STAFF PRESENT:

10 KARIN FISH, Chief Deputy Director

11 MARK LEARY, Interim Executive Director

12 DEBORAH MCKEE, Board Administrative Assistant

13 KATHRYN TOBIAS, Chief Legal Counsel

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1 P R O C E E D I N G S

2 BOARD CHAIR MOULTON-PATTERSON: I'd like to get
3 started. And welcome to our public agenda review, our
4 public briefing, whichever you prefer. We're glad to have
5 you.

6 I want to welcome Mark Leary as the first official
7 interim executive director.

8 Mark, I'll turn it over to you. I understand
9 we're going to be going over the agenda and then we have
10 some discussion on it.

11 MR. LEARY: Thank you, Madam Chair. That is
12 exactly right. We have the typical workshop agenda briefing
13 where executive staff is prepared to walk you through the
14 various agenda items and answer any questions of the board
15 members.

16 Then in addition to that we have four other items,
17 three other items that we're anxious and willing to put on
18 for you for your information and discussion.

19 With that, I'll introduce this month's board
20 agenda and describe to you the items that we've proposed for
21 consent. You should have received a memo from me dated June
22 7th that describes agenda items 20, 23, 26, 31, and 35 as
23 being proposed by exec staff for consent.

24 And then a personal note, Madam Chair, I thank you
25 for your warm welcome. And my first board meeting I will

1 not be here. I will be on vacation.

2 And Karin Fish -- it's a long-planned vacation.

3 My sister is getting married. I'm going back to central
4 Illinois, so I'll be unavailable for the board meeting, but
5 Karin will be available.

6 BOARD CHAIR MOULTON-PATTERSON: We'll excuse you
7 since it's your sister's wedding.

8 Thank you.

9 And before we begin, I did want to mention to
10 members of the public, the way we -- our public briefing, if
11 you haven't been here before, is very informal. Members and
12 staff ask questions as they come up and just ask them
13 directly.

14 After each section of the agenda, I will ask if
15 there's any speaker comments or questions at that time.

16 And also I just want to remind you to conserve
17 electricity. The lights have been dimmed in here. We're
18 all doing our part and we hope you will do yours. Thank
19 you.

20 And I guess we start with continued business,
21 agenda item number 3. Oh, no. Yes. That's what we want.

22 MS. NAUMAN: Madam Chair, Julie Nauman, Permitting
23 and Enforcement Division.

24 Item number 3, this is an item that has been
25 continued from our March meeting. The title indicates that

1 it's a request from the City of San Diego to revise the
2 board's matching grant that was awarded to the city in
3 January of 2000 for cleanup of the 30th and Redwood site in
4 the City of San Diego.

5 And basically all they're asking for -- well,
6 they're asking for a revision from the amount that you
7 approved as a matching grant of 250,000 that you granted
8 with conditions and seeking \$750,000 instead as a matching
9 grant and modification of some of the conditions.

10 In the item itself is included a chronology of key
11 dates relative to the board's action, as well as city action
12 with respect to the cleanup of the site. The site has been
13 cleaned up with the assistance of US EPA.

14 The item also includes an update of the city's
15 expense summary. There was an original letter dated
16 February 27th and it's included in your packet, again on
17 3-15. Since the item was carried over from the March
18 meeting, the city did submit a revised summary via a letter
19 dated April 4th, which you'll find on 3-11.

20 In that you'll see a chart that summarizes the
21 city's expenditures and projected expenditures for the
22 cleanup of the site and the related expenditures.

23 I do expect the city to be here. In fact I
24 understood that they would be here for the briefing as well.

25 And so we will go through the item and then allow

1 them to explain further the rationale for their request.

2 I also want to point out to you in this item we
3 have specifically pointed out those costs that are by
4 statute and regulations specifically eligible under the 2136
5 program, and those that are specifically ineligible, and
6 those that we call potentially eligible, because the
7 regulations allow the board discretion to determine whether
8 or not those costs are appropriate for inclusion in a match.

9 Bottom line is staff is recommending that the
10 board approve the city's request to increase their matching
11 grant, but in an amount to be determined by the board, based
12 on your examination of the costs.

13 Any questions?

14 BOARD CHAIR MOULTON-PATTERSON: Questions?

15 Steve.

16 BOARD MEMBER JONES: Thanks, Madam Chair. Just a
17 couple.

18 There were, I saw in the item that none of our
19 money goes to buying homes, and that's pretty important for
20 me, that it just repays them or helps put in that general
21 fund or that enterprise fund --

22 MS. NAUMAN: They're suggesting that --

23 BOARD MEMBER JONES: It's not our money?

24 MS. NAUMAN: Uh-huh.

25 BOARD MEMBER JONES: And then it also says that

1 they are providing or have provided us a letter that
2 indemnifies us.

3 MS. NAUMAN: Yes.

4 BOARD MEMBER JONES: One of the issues when this
5 first came to the board was the, I don't know what the right
6 term is, it was like the doctor that helps somebody on the
7 street.

8 MS. NAUMAN: The good Samaritan.

9 BOARD MEMBER JONES: And that was a big issue,
10 because we never got a affirmative response from the city
11 back then that in fact we would be indemnified for that.

12 Does this letter of indemnification make sure that
13 we are held harmless on all these issues?

14 MS. NAUMAN: The way that issue was addressed was
15 it was included as one of the conditions of the matching
16 grant. So there is specific language in the item that is
17 then adopted by the resolution and those conditions are a
18 part of the agreement with the city.

19 The city has not actually executed the agreement
20 to date, but the language with respect to indemnification,
21 and it is complete, our counsel worked with their counsel on
22 it, at least at a staff level we're satisfied that the board
23 is completely indemnified and it is included as language.

24 BOARD MEMBER JONES: We're not setting precedent
25 here for any future --

1 MS. NAUMAN: We're setting a positive precedent,
2 but --

3 BOARD MEMBER JONES: But I mean we're not --
4 there's no holes in this indemnification that --

5 MS. NAUMAN: None that I'm aware of.

6 MS. TOBIAS: I don't think there's any issues in
7 the indemnification. We actually, as Ms. Nauman has said,
8 worked with the city attorney's office on that, and we had
9 that letter in time for the last set of meetings, so it may
10 not have come up to the board's attention, because they
11 didn't carry out the proposed agreement, but we have seen
12 the indemnification agreement, and I don't think we have any
13 issues with it.

14 I would also point out from a legal point of view
15 that, and I'm not sure this makes any difference except from
16 a legal point of view, that legal does not see this item as
17 a modification. We see this as a new request. The former
18 agreement was not carried out. It's been a substantial
19 amount of time. And, if necessary, we could certainly
20 provide you with something on that. I'm not sure it would
21 make a difference in terms of the decision you're making,
22 but just in case this happens again with some other
23 applicant, legal basically thinks that this is a new request
24 from the city, and I don't think that bothers --

25 BOARD MEMBER JONES: I don't have a problem with

1 that request. I just from a historical standpoint it was
2 troublesome that we didn't get indemnified when we asked the
3 first time around. That just always makes me a little
4 nervous. That it seemed like a reasonable request at the
5 time and again it sort of raises the issue as to why. So
6 the fact that it's taken care of resolves that issue for me.

7 BOARD CHAIR MOULTON-PATTERSON: Any other
8 questions?

9 We'll go to speakers from the city.

10 I don't have any slips, so if you would give us
11 your name when you get up here for the record, we'd
12 appreciate it.

13 MS. TOBIAS: Madam Chair, sorry. Legal.

14 I think in the briefings are we taking the
15 comments at the end of P and E or at the end of --

16 BOARD CHAIR MOULTON-PATTERSON: No. At the end of
17 each section, and number 4, I believe has been pulled, so
18 we'll go ahead, because I believe they want to leave back
19 there, before we start new business.

20 Thank you, though.

21 Good morning.

22 MR. GONAVAR: Good morning. My name is Chris
23 Gonavar. I'm with the environmental services department
24 with the City of San Diego.

25 Madam Chair, members of the board, and staff,

1 we're just here on behalf of the agenda item 3 that will be
2 appearing before you next Tuesday, and certainly urge your
3 support of our request.

4 And actually today we're here just to hear how the
5 presentation went this morning, as well as to answer any
6 questions if there should be other questions from any of the
7 board members.

8 Thank you.

9 BOARD CHAIR MOULTON-PATTERSON: You're from the
10 city?

11 MR. GONAVAR: Yes.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you for
13 being here. And I'm sure we'll hear questions on Tuesday,
14 and it looks like the staff has done a very good job in
15 answering a lot of our questions. But thank you for being
16 here.

17 MR. GONAVAR: Thank you.

18 BOARD CHAIR MOULTON-PATTERSON: Okay. We're going
19 to go on to new business right now.

20 I did want to mention that I requested that we try
21 to hear items number 1 through 27. Well, we will hear items
22 1 through 27 on Tuesday, June 19.

23 And then on Wednesday we'll hear items 28 to the
24 end of the agenda.

25 It's my feeling that this is a lot more

1 constituent, stakeholder, whatever, friendly and so people
2 don't have to fly from long distances up here.

3 And I know we did this on Coastal Commission. I
4 know it's not going to work perfectly, but I would like to
5 try it and see how it works, and it's also cost efficiency
6 item for our staff, I believe. So that's my intention.

7 I did want to point that out and hopefully we can
8 make this work. You don't always get totally even days.
9 Some days we will go a little later. But at least people
10 will know when their item is going to come up.

11 With that, we'll go on to new business.

12 Permits, and back to Ms. Nauman.

13 MS. NAUMAN: Item 5 is consideration of a new
14 permit for the Oakville solid waste site in Imperial County.
15 This is one of the county's old sites, since 1979. A number
16 of changes have occurred in the operations of the facility
17 and since that time and the purpose of this revision is to
18 bring the permit up to date to reflect those changes.

19 I need to point out to you a couple of things.

20 We have determined that the financial assurances
21 issues are resolved. It will be a brief permit inspection
22 conducted on Friday. Earlier this week, through some just
23 kind of miscommunication, another version of the permit was
24 forwarded to you, and there was some changes with respect to
25 whether or not the facility was in compliance or not in

1 compliance with state minimum standards.

2 We are expecting that the re-permitting inspection
3 on Friday will show that the facility is in compliance with
4 state minimum standards and the LEA will then submit a
5 revised permit document to us that will clearly reflect that
6 the facility is in compliance.

7 So I apologize for any confusion that that might
8 have caused by our transmitting multiple copies of the
9 permits to you.

10 Any questions on that one?

11 BOARD CHAIR MOULTON-PATTERSON: Questions on
12 number 5?

13 I don't see any.

14 MS. NAUMAN: Item number 6 is similar. This is
15 the Imperial solid waste site, also an older facility in
16 Imperial County, operating under a '79 permit.

17 Number of changes have occurred in the operation
18 of the facility since that time and this permit revision
19 will bring them current.

20 We did transmit to you a revised permit, which
21 clarified some conditions relative to permitted acreage and
22 hours of operation and tonnage, as that links to the
23 upcoming projected closure, the Bradley landfill, so that
24 new permit that we submitted to you is the correct one.

25 BOARD MEMBER PAPARIAN: Question.

1 The 69-acre site and the 18 acres for disposal is
2 an unlined facility in that area of the 18 acres; right?

3 MS. NAUMAN: I believe so.

4 BOARD MEMBER PAPARIAN: My question is if they go
5 in the future for an additional disposal area within the 69
6 acres, will that additional area have to be lined?

7 MS. NAUMAN: Yes. If you're going to expand a
8 disposal area.

9 BOARD MEMBER PAPARIAN: Thank you.

10 MS. NAUMAN: That type of revision would come back
11 to the board.

12 BOARD CHAIR MOULTON-PATTERSON: Any other
13 questions?

14 MS. NAUMAN: Item number 7 is a new permit for a
15 new facility, the Big Bear Transfer Station in San
16 Bernardino County.

17 The outstanding issue here is CEQA is still
18 reviewing the CEQA document and will have that review
19 completed by next week and be able to make our
20 recommendation to you.

21 There are no other outstanding issues.

22 Questions?

23 Item number 8 is commonly known as the Ox Mountain
24 Facility in San Mateo County. This is a revised permit for
25 that facility.

1 We indicated at the time the item was prepared
2 that we had not yet determined compliance with state minimum
3 standards.

4 The inspection has been conducted and they are in
5 compliance with all state minimum standards.

6 We're still waiting for some documentation that's
7 necessary for us to make our findings with respect to
8 financial assurances. We expect to receive that
9 documentation from the operator by Friday of this week. And
10 assuming that that meets our requirements, we will be
11 recommending concurrence.

12 The next item --

13 BOARD CHAIR MOULTON-PATTERSON: Excuse me.

14 Steve.

15 BOARD MEMBER JONES: Julie, can I ask a question
16 back on Big Bear.

17 The CEQA review that you guys are doing, has there
18 already been a CEQA approved for this by the county?

19 MS. NAUMAN: Yes. A mitigated dec.

20 BOARD MEMBER JONES: This transfer station is
21 going in the existing landfill?

22 MS. NAUMAN: I believe so.

23 BOARD MEMBER JONES: In a borrow area.

24 MS. NAUMAN: Yeah.

25 BOARD MEMBER JONES: Then they're going to feed

1 into that from some remote or some temporary dropoff areas?
2 Because I know that a big issue up there is as a resort town
3 it's the weekenders that drive it through the roof, because
4 they contacted me about this.

5 But so is CEQA just that they did it right or --

6 MR. DE BIE: If I may, Julie. Mark De Bie with
7 Permitting and Inspection Branch.

8 What the staff is doing is they participated in
9 the CEQA process. We commented on it. We had some
10 questions relative to the analysis. We passed those on to
11 the lead agency.

12 They were not forthcoming in responding to our
13 questions.

14 The planner that was in charge of the project went
15 on a two-, three-week vacation, so they still didn't
16 respond, and now he's back and so we're confident that
17 they'll be giving us the information.

18 Our concerns were relative to the green waste
19 handling at the site. It wasn't clear in the environmental
20 document what safeguards they were implementing relative to
21 the fire safety. It's a forested area, high fire danger,
22 that sort of thing.

23 I think you had another question about where the
24 waste is coming from. It's our understanding that the
25 transfer station is basically in effect replacing the

1 landfill, and so the source of waste for the landfill is the
2 same as for the transfer station.

3 BOARD CHAIR MOULTON-PATTERSON: Thank you.

4 BOARD MEMBER JONES: Thank you.

5 MS. NAUMAN: Item number 9 is a new permit for a
6 facility called Environmental Reclaiming Solutions in Yolo
7 County. This is a facility that has been in operation since
8 about 1995, was operating in an exempt capacity, and then in
9 '98, the LEA issued a registration permit which allowed them
10 to do composting not to exceed 10,000 cubic yards.

11 This facility has had kind of a long history of
12 non-compliance with that requirement of the registration
13 permit. The LEA has been working with them to try to bring
14 forward a regular standardized permit to allow them to
15 operate at the levels that they claimed they are able to
16 adopt, based on the waste stream that they're receiving.

17 There are some unusual circumstances surrounding
18 this permit that I wanted to mention to you this morning.
19 We'll have more information for you next week.

20 The facility is operating under a conditional use
21 permit issued by the County of Yolo, and within that use
22 permit there was a condition that they are required to post
23 security for the facility.

24 They have long missed the due date for that, and
25 the Yolo Planning Department staff has -- will be

1 recommending to the Planning Commission Thursday night, this
2 week, that's June 14th, that the Planning Commission begin
3 conditional use permit revocation proceedings.

4 So we will be monitoring that hearing and will
5 provide information to you with respect to how that factors
6 into what we can and cannot do with respect to the permit.

7 The other issue that I did want to mention to you
8 is you'll see as you read the item that there is a long
9 history of extensions of notices and orders. That caused me
10 to have some serious concern about what the LEA was doing
11 with this facility.

12 And yesterday I was able to convene a meeting with
13 the LEA and his staff to review what has been going on with
14 their involvement with this facility, and why the
15 enforcement history looks the way it does.

16 So I'm continuing to talk with them about that.

17 They argue for their regular LEA evaluation in
18 August. We will proceed with that. We may actually
19 accelerate that schedule.

20 So I just wanted to assure you that we are looking
21 at their performance very seriously and trying to understand
22 the reasons why the history looks the way it does.

23 So I can keep you posted on that.

24 And I know that they will be prepared to respond
25 to any questions that you have with respect to the

1 enforcement history when they're here next Tuesday.

2 BOARD CHAIR MOULTON-PATTERSON: Mike.

3 BOARD MEMBER PAPARIAN: I take it that this is the
4 kind of situation where board staff would not do an
5 inspection because it's just the type of permit they would
6 be going out and doing the regular inspection?

7 MS. NAUMAN: Right.

8 BOARD MEMBER PAPARIAN: If we were to grant the
9 permit here, would we in the future do regular inspections
10 for this type of facility?

11 MS. NAUMAN: No. Well, this is a composting
12 facility.

13 MR. DE BIE: Mark De Bie, P and I.

14 The mandate in the inspections by the state are
15 the 18-month inspections of only solid waste landfills, but
16 we do have the authority to inspect any solid waste facility
17 with a focus on assisting the LEA and developing information
18 relative to LEA performance.

19 And so if the board wishes that we identify this
20 site as a site that should be a candidate for inspections, a
21 number of inspections or routine inspections, we can
22 certainly fit that into the program.

23 BOARD MEMBER PAPARIAN: Do you in fact go out and
24 inspect non-landfill facilities? Is it unusual for you to
25 inspect non-landfill facilities or are you doing it pretty

1 regularly?

2 MS. NAUMAN: It's not a routine practice.

3 MR. DE BIE: Whenever a permit comes up, we
4 certainly go out at least once to do the pre-permit
5 inspection and so those can happen. A permit revision can
6 happen every five years, in most cases. Sometimes it can go
7 longer.

8 Certainly we're going out now for their pre-permit
9 inspections, and I'm working now with program staff to sort
10 of implement new procedures, new business practices, where
11 we're -- we will be going out to transfer stations and
12 compost facilities more often than we are currently.
13 Initially with the aim of providing guidance assistance and
14 training for LEAs, and then eventually when LEAs and as well
15 as our staff are more up to speed on management practices
16 and the requirements and more tuned in on the nuances at
17 these sites then we will be factoring more into our
18 evaluation of the LEA performance.

19 BOARD MEMBER PAPARIAN: Okay. And would the LEA
20 have had any guidance along the way that a fine would have
21 been appropriate in a situation like this?

22 MS. NAUMAN: We discussed that yesterday and in
23 fact our staff, and we have letters that we can share with
24 you, we're working with the LEA through the last couple of
25 years on this and trying to encourage them to take some

1 stronger action. So we were aware of the situation and had
2 tried to provide the kind of technical assistance and
3 support in urging the LEA to take action.

4 We did talk about the authority that the LEA has
5 and asked him why he didn't exercise it.

6 And again their response was that they were trying
7 to recognize that the permit process takes a long time.
8 They were doing CEQA, they are processing a conditional use
9 permit, there were a lot of delays along the way.

10 I still find it problematic, though, that during
11 that time frame the operator didn't reduce the volume on
12 site, which was really what the order was all about. The
13 order was twofold, get a new permit and in the meantime
14 reduce the volumes so that you're in line with the permit.

15 So I think the LEA --

16 (Announcement over loudspeaker.)

17 MS. NAUMAN: I think the LEA in that situation
18 could have exercised their authority to impose fines and
19 penalties.

20 BOARD MEMBER PAPARIAN: I'm sure we'll get into
21 this more next week, but since to me it's somewhat like
22 someone applying for a permit to build a house and then go
23 ahead and start building before they get the permit. I know
24 with the Coastal Commission what we do in a case like that,
25 and maybe we can look into that.

1 (Announcement over loudspeaker.)

2 BOARD CHAIR MOULTON-PATTERSON: Thanks, Mike, for
3 bringing that up.

4 I had just a question generally. On item 7,
5 setting it, it describes here no residents within a thousand
6 feet of the facility. In number 8 it's setting rural
7 coastal, and 9 agricultural.

8 I really like having that description. In a rural
9 setting or an agricultural, do we just assume that there are
10 neighborhoods it will be in here?

11 MS. NAUMAN: Yes. We know the board's interest is
12 in knowing whether or not there are residents within the
13 proximity to the facility, so generally what we try to
14 describe is what the area looks like, what the land uses are
15 and then tell you where the closest residents are. So, you
16 know, I will reinforce that with the staff so we will try
17 and make sure that you know where the residents are.

18 BOARD CHAIR MOULTON-PATTERSON: Thank you. Item
19 number 10. Oh, I'm sorry.

20 BOARD MEMBER JONES: Just two quick questions,
21 maybe we can get answers at the board meeting.

22 What are the requirements on a chipping and
23 grinding operation as far as if they're not composting
24 material and it's stockpiled? Are they different than this
25 10,000 tons?

1 MS. NAUMAN: I think the answer is yes.

2 BOARD MEMBER JONES: I don't agree with this. I
3 mean I think there's two things that really bother me about
4 this permit.

5 If there is a condition in the CUP that says they
6 have fixed security, a fence, or whatever, then the LEA
7 should include that as one of their permit conditions,
8 because if there is an issue, whether or not they're
9 complying with the CUP, although they have a CUP right now,
10 then really our answer to that, as far as when it comes in
11 front of us, they have a valid CUP.

12 But if it's a condition of the permit and they're
13 in violation of it, aren't they in violation of a standard,
14 and then it does give the board an opportunity? I mean
15 that's something they want to think about and talk to the
16 LEA about, you may want to think about this material being
17 chipped and ground maybe outside of the regulatory tier for
18 the composting, and it sounds like if they are stockpiling
19 it, it may be a scheme, so you may want to look at that.

20 The other thing is if there were three notice and
21 orders done by this LEA, copies were sent to the Waste Board
22 P and E staff. We're having a meeting today or you had a
23 meeting yesterday with these people. I'm trying to
24 understand why were there meetings in that period from
25 notice and orders 3 through 5?

1 MS. NAUMAN: I believe there were meetings between
2 our staff and the Yolo County staff.

3 BOARD MEMBER JONES: Because, I mean, I can see
4 where there's some confusion, you know, there could be some
5 gray areas there, but I don't think it can always fall just
6 on the LEA. I think we have to take a little bit of -- we
7 either have to look at how we do our business as far as
8 those materials, you know, those notice and orders, and
9 what's the follow-up on that stuff, because clearly if there
10 is a continued problem with the notice and order, we need to
11 provide a service there. We did that as part of the LEA.
12 It wasn't an LEA evaluation. It was some other thing we did
13 in '97 where we actually said if the LEAs were having
14 problems with operators they should come to the board
15 without being penalized and request board help to help
16 facilitate compliance.

17 So I just like to hear a little bit about that at
18 the board meeting.

19 MS. NAUMAN: We'll be happy to do that. We can
20 provide you the letters.

21 There is a history here of board staff trying to
22 push. We pushed it at a level that we thought was
23 appropriate at the time. I think those same conditions and
24 circumstances presented themselves to me today, I would have
25 pushed our own staff a lot harder.

1 BOARD MEMBER JONES: I'm not criticizing your
2 staff. I was just trying to make this work, because, you
3 know, we've been beaten up on an awful lot of people and
4 there's got to be a way to do this that makes sense.

5 But I would think that we cannot as a board put
6 conditions on a permit, but you certainly have the ability
7 and your staff to talk to the LEA about appropriate
8 conditions on a permit. You may want to stick that through
9 a little bit.

10 MS. NAUMAN: We actually want to consult, I don't
11 know if Mark has done it yet, but we did want to consult
12 with legal on the whole relationship between the CUP and the
13 permit, what this board can do relative to things that are
14 contained in that CUP and enforcement authority and just
15 what options you have available to you next week as you're
16 looking at the permit.

17 BOARD MEMBER JONES: If there was a condition in
18 here that said they had to have a fence --

19 MS. NAUMAN: It's not that kind of security. It's
20 financial security.

21 BOARD MEMBER JONES: Okay. Whatever it is, and
22 it's a condition, then it's statement of standing, because
23 it's as long as there's a CUP involved, there's also due
24 process. So the fact that they're going to hear it on the
25 14th doesn't mean it's going to be resolved on the --

1 MS. NAUMAN: Absolutely not.

2 BOARD MEMBER JONES: For us to take that into
3 consideration really blows every permit that will ever come
4 in front of us. We've got to be a little bit --

5 MS. NAUMAN: Careful.

6 BOARD MEMBER JONES: Be careful.

7 MS. NAUMAN: We will do our best to lay out all
8 your options as clearly as we can.

9 Item number 10 is the Western Regional Sanitary
10 Landfill in Placer County, a revising of their permit. This
11 item was scheduled for a couple of months ago and was
12 pulled.

13 There are changing hours of operation and changing
14 the closure date.

15 The significant factor about this item is that
16 there is considerable local opposition to the facility and
17 the conditional use permit issue issued by the Planning
18 Commission has been appealed by one of the area property
19 owners to the Placer County Board of Supervisors. I don't
20 have a specific date for that hearing, but it is within the
21 next couple of months.

22 I don't know whether any of those opponents will
23 appear before you. Those issues are not really relevant to
24 your consideration of the permit, but I wanted you to know
25 that there is that opposition.

1 BOARD MEMBER JONES: Madam Chair.

2 BOARD CHAIR MOULTON-PATTERSON: Steve.

3 BOARD MEMBER JONES: I promise I will quit talking
4 after this one.

5 This is a facility intimately -- eminently aware
6 of, intimately aware of.

7 When you say considerable opposition, it is
8 considerable opposition from one party; correct?

9 MS. NAUMAN: I meant considerable in that they
10 were very serious and --

11 BOARD MEMBER JONES: They hired a lot of lawyers.

12 MS. NAUMAN: Very aggressive in their opposition.
13 I didn't mean to indicate that there were multiple parties.

14 BOARD MEMBER JONES: Right. Exactly.

15 There was a letter that -- or there was something
16 that was said, I was sick when this item was going to be
17 heard. I wasn't here. I've looked, Jeannine has looked in
18 my files, I've looked through the files, I have a big stack
19 of stuff that their attorneys provided, which amazes me how
20 words work, but there was also a letter, if somebody has it
21 in their file I'm asking for a little help from my board
22 members or staff, that sort of made a suggestion that if
23 they shut this landfill down it could be hauled out of
24 state. If anybody remembers that kind of a letter, I
25 need -- I'd like a copy. It got somewhere in trying to get

1 stuff from here to me at home when I was down, it's -- I
2 don't have it.

3 But it's important, because this has been -- this
4 is a perfect case of all of the government entities doing
5 what we all would hope government entities would do.

6 And so just if anybody has got that letter, I'd
7 appreciate it. Not now, but it would be great.

8 BOARD CHAIR MOULTON-PATTERSON: Mike.

9 BOARD MEMBER PAPARIAN: In the item --

10 MS. NAUMAN: I'm sorry. Excuse me.

11 BOARD MEMBER PAPARIAN: The issue of statement, is
12 the facility in compliance with state minimum standards, in
13 your opinion?

14 MS. NAUMAN: There is a long-term gas violation at
15 the facility. And they're continuing to monitor it, but it
16 would be necessary for the board to make the finding with
17 respect to the long-term violation policy to approve the
18 permit. From the staff perspective we believe that in this
19 current policy that's in place, has been met by the operator
20 and --

21 (Announcement over loudspeaker.)

22 BOARD MEMBER PAPARIAN: Punctuates my comments
23 here.

24 (Announcement over loudspeaker.)

25 BOARD MEMBER PAPARIAN: They're violating state

1 minimum standards, but you're suggesting that they are
2 meeting our policy on long-term violations. Therefore, from
3 a legal perspective the board has an option on this permit
4 to deny based on state minimum standards, unless it finds
5 that it's meeting the long-term violation policy. Is that
6 right? I guess I'm looking at our attorneys.

7 MS. NAUMAN: Yeah, I'll look at the attorney.

8 MS. TOBIAS: I liked it better when Julie was
9 ready to answer.

10 Yes, that is the board's choice. The long-term
11 gas violation policy that we have basically says as long as
12 they meet the certain criteria that it's okay for them to
13 operate.

14 And that I will remind the board as well that
15 that's what the state minimum standard says, so if the board
16 decided not to allow this project to move ahead, it would be
17 contrary to what we've done in the past with the other
18 projects.

19 BOARD MEMBER PAPARIAN: But it would be consistent
20 with the law, which allows us to deny a permit based on
21 state minimum standards violations?

22 MS. TOBIAS: The permit, the state minimum
23 standard that applies to this basically allows for a time
24 frame to be set for the permit to compliance on long-term
25 gas violations, and I can get that out and show it to you.

1 BOARD MEMBER PAPARIAN: That gets back to my basic
2 question, is it or isn't it violating state minimum
3 standards, so maybe we can explore that at the meeting.

4 MS. TOBIAS: Well, I mean, I think the explanation
5 is that the state minimum standard says that if there is a
6 violation at the boundary, that they have time to bring it
7 into compliance and then a time frame is set.

8 So our policy really in essence reflects what the
9 state minimum standard says. And I know this is very
10 complex, and I'm not surprised that there is some confusion
11 over this, but if we were going to -- if the board wants to
12 change that, we need to change the regulation as well as the
13 policy. The policy really clarifies the state minimum
14 standard.

15 And, Julie, I don't know if you want to clarify
16 this further or not.

17 MS. NAUMAN: I don't disagree with anything that
18 you have said. This is one of the policies that the board
19 has begun to examine, and we had an item before you a number
20 of months ago at which point Senator Roberti and Mr. Jones
21 agreed to form a bit of a working group and discuss some
22 options with respect to the long-term violation policy.
23 They have had an opportunity to meet, and unfortunately when
24 Mr. Jones was out we weren't able to continue those
25 meetings, and I'm hoping that we can do that now that he's

1 back with us.

2 So we will be coming back to the board hopefully
3 within the next couple of months with some options for you
4 to consider with respect to how do you want to deal with the
5 current long-term violation policy, and that would include a
6 discussion of this relationship to the regulations.

7 In the meantime what we have to work with is the
8 existing long-term violation policy and that's why we
9 crafted the item as we have to reflect that policy.

10 BOARD CHAIR MOULTON-PATTERSON: Steve.

11 BOARD MEMBER JONES: The violation at this
12 facility is 20919.5, which says they need to do all those
13 things.

14 I think one of the other issues that's a little
15 different with this one as opposed to some of the ones we've
16 had is they've done the investigation, they've installed a
17 gas extraction system. So there is a system in place to
18 draw the gas to mitigate the issue.

19 This is a perfect example of the fact that gas is
20 not an exact science. You draw, and then when you see hits,
21 that means you've got to change your system and add headers
22 to be able to draw into a certain area. So they've got
23 hits -- they have a one or two.

24 MS. NAUMAN: I think it's just one.

25 BOARD MEMBER JONES: Yeah. As I read it, there

1 was one well at the time, but they have put --

2 MS. NAUMAN: And there are --

3 BOARD MEMBER JONES: They've gone in there three
4 times or two times to, you know, add more pipe.

5 MS. NAUMAN: And they are in the process of adding
6 more now.

7 BOARD MEMBER JONES: Exactly.

8 So I guess it begs the question while they exceed
9 gas at that one monitoring well, they have a system in place
10 that is operating to try to mitigate it. So what's -- I
11 mean what's the violation if you put a -- if you put a
12 system in place to mitigate and you're operating it, and
13 those levels are drawing down, then what's the violation
14 other than the fact that the identifier, which is the five
15 percent at the boundary, has been documented.

16 I mean, I think this is a great example of do our
17 regulations -- I mean, our regulations did what they needed
18 to do, these guys put in a system. They have just got to
19 tune it. It's not an exact science, you don't rip a hole in
20 the ground and start sucking. I mean, you know, you put
21 pipes, you need to figure out where the gas is coming from.

22 MS. TOBIAS: The standard that Mr. Jones was
23 referring to, as he said, 20919.5, explosive gases control,
24 and in C it says if the methane gas levels including the
25 limits specified in little A are detected, the owner

1 operator must immediately take all necessary steps to ensure
2 protection of human health and notify the EA; two, within
3 seven days of detection place in the operating record the
4 methane gas levels detected and a description of the steps
5 taken to protect human health; and then, three, within 60
6 days of detection implement a remediation plan for the
7 methane gas releases, place a copy of the plan in the
8 operating record, and notify the EA that the plan has been
9 implemented. The plan shall describe the nature and extent
10 of the problem and the proposed remedy.

11 So basically what this state minimum standard does
12 is both says if there is a threat to human health and safety
13 then there's an issue, but it also says that the way to deal
14 with it is to implement a plan.

15 Our existing policy for long-term gas violations
16 basically clarifies that following upon this, that what they
17 also have to be doing is in the middle of putting in their
18 gas control system, and I think several other conditions
19 that I don't recall, but I know Julie probably does, so you
20 know what really needs to be changed if the board doesn't
21 want to do it this way is both the regulation and the
22 policy. It leaves a violation in place because there is
23 still a violation until that is removed, but it also tells
24 you what to be doing during that time.

25 BOARD MEMBER JONES: So you've got the indicator,

1 but they have remedied it according to the statute.

2 MS. TOBIAS: Right. And a lot of times it --

3 BOARD MEMBER JONES: They're in compliance, but
4 they're not in compliance.

5 MS. TOBIAS: I would say they're not in compliance
6 until you no longer can test gas at that boundary.

7 BOARD MEMBER JONES: Until you have a zero or
8 under five.

9 MS. TOBIAS: Under five.

10 And so at that point then the violation comes off,
11 but the gas system stays in place permanently to make sure
12 that you don't have a continuing violation of that standard.

13 BOARD MEMBER JONES: Right. One of the things --
14 I don't want to belabor this, but I think it's important
15 because this is a critical issue to an awful lot of people
16 in Placer County, beside Placer Ranch, and I think one of
17 the issues we need to talk about is when the rains start
18 hitting and the weather changes, you get gas, so.

19 This is not -- the gas system is tuned to draw the
20 gas, and if it's drawing gas and they are continually
21 upgrading, I think it's okay. I think that's fine.

22 But somehow we got to figure out that those wells
23 that are still in excess of five percent, if they are coming
24 down or fluctuating by weather and these people are still
25 plumbing to it, it would seem to me that when we do do a

1 policy or figure it out, we've got to have something
2 concrete so people understand that if they do this, if they
3 operate it right, and they are drawing it down, then they
4 satisfy something, and then maybe there is another area for
5 as the hits go down, otherwise there's a violation every
6 month.

7 MS. TOBIAS: And I certainly bow to the experience
8 of Julie's staff on this, but I'd also say that probably the
9 standard anticipates a worst case analysis, which is that if
10 your gas levels are going to fluctuate based on whether
11 anything else that you're going to have to basically solve
12 for the standard, and if it means that other times of the
13 year you're further below, you know, just because there's
14 something else happening, the way I read the standard at the
15 moment is you have to be able to go above that, because
16 something else has occurred, without a violation on it. So
17 you kind of have to solve for a lower number and then if a
18 fluctuation rise up to that level.

19 So again certainly this is a regulation, you know,
20 it is based on the record of delegation, but it's certainly
21 something that the board can look at and grapple with.

22 BOARD MEMBER JONES: Thanks.

23 BOARD CHAIR MOULTON-PATTERSON: Anything else?
24 Okay.

25 MS. NAUMAN: On to item 11. This is the Farm and

1 Ranch solid waste cleanup program. This is our quarterly
2 cycle. We have a number of jurisdictions that have applied
3 for grants.

4 The issue that was raised in the item was that we
5 were waiting for the application to be submitted from Los
6 Angeles County, included it in the item, so there would be
7 adequate notice. We did receive the application and staff
8 is finishing up and is ranking and rating all of that, and
9 we'll be able to report our recommendation to you on
10 Tuesday.

11 There are no other outstanding issues with any of
12 the other grant applications that are presented in the item.

13 BOARD CHAIR MOULTON-PATTERSON: Questions?

14 MS. NAUMAN: Item 12 is consideration of new sites
15 for the 2136 program, for a number of sites being proposed
16 for additional for cleanup. I would just wait for questions
17 on specific sites if you have them.

18 Okay.

19 BOARD CHAIR MOULTON-PATTERSON: I don't think we
20 have any at this time.

21 MS. NAUMAN: Item 13 is staff bringing forward for
22 your consideration approval to start the formal notice,
23 45-day period for proposed regulations for the local
24 enforcement agency enforcement assistance grants.

25 This is a fairly straightforward item.

1 What it does is place clearly in regulation the
2 process that we have been following for the last several
3 years in granting the enforcement assistance grants to the
4 LEAs, the statutorily based program. Pretty much a block
5 grant approach.

6 And I don't know of any opposition. We have
7 worked closely with the LEA community. They're comfortable
8 with the regulations. I don't know of any stakeholders that
9 have any interest in the package.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you.

11 MS. NAUMAN: Moving on to item 15, this is our
12 consideration item of the discussion item that you had last
13 month with respect to the audits, the recommendation number
14 10. Legislation to streamline the current process from
15 imposing civil penalties.

16 And what this item does is present to you for your
17 consideration a statement of findings, if you will, of
18 barriers to the streamlining of civil penalties.

19 We've included in here some information, and I
20 think the board requested in summarizing civil penalties for
21 the board versus other agencies.

22 I do expect some LEAs to be here to offer comments
23 and answer any questions you have about their utilization or
24 the difficulties that they've had in attempting to utilize
25 their authority for civil penalties.

1 BOARD CHAIR MOULTON-PATTERSON: Mike.

2 BOARD MEMBER PAPARIAN: One of the things I'm
3 going to want to explore a little bit is whether under our
4 existing authority we can do more. The implication here is
5 that the five and 15 thousand dollars levels are not an
6 adequate deterrent and for various reasons aren't being
7 used, because they're just not high enough.

8 I'm wondering if there are circumstances where we
9 could be using those more, and I'm wondering also maybe our
10 legal staff or the attorney general's office could help us
11 with whether other agencies are able to use fines up to
12 \$15,000 as an adequate deterrent.

13 I know that when this board, before I got here,
14 fined several cities on 939 compliance at levels less than
15 \$15,000, it seemed to get a lot of notice around the state
16 and seemed to result in a lot of activity and action not
17 only in those cities but elsewhere.

18 So again I wonder whether our existing authority
19 could be better used and used more frequently to assure
20 compliance and deterrence.

21 MS. NAUMAN: That's why I've asked the LEAs to be
22 here to be prepared to share their experiences with you,
23 because I have engaged in some dialogue with them about this
24 and I think it would be important for the board to have that
25 same opportunity so that they can tell you what it's like to

1 sit down with their local authorities, their DA and say I
2 want to pursue these civil penalties, and what barriers they
3 run into just being able to do that, as well as their own
4 judgment about the effectiveness of them imposing fines or
5 whether they feel that they're achieving compliance
6 otherwise.

7 So I hope you'll hear from them directly.

8 BOARD MEMBER PAPARIAN: In some cases it's a
9 matter of priority on the part of the DAs, and I think you
10 know if that's what's keeping us from going forward, maybe
11 there's things we can do to deal with that.

12 We need to be putting pressure on DAs to take
13 these cases or work with our coordinating enforcement groups
14 that we have in various parts of the state to up the
15 priority here with the DAs.

16 But, again, whatever the issues might be, I'm
17 again wondering whether our existing authority could be used
18 more effectively.

19 BOARD CHAIR MOULTON-PATTERSON: Thanks, Mike, for
20 bringing that up, because in my meeting with the LEAs they
21 certainly expressed frustration. I don't know if this is
22 the general consensus, but felt like the penalties should be
23 higher, not that they would use them all the time, but at
24 least it would send a very strong message, a serious
25 message.

1 And so I would like to see what kind of legal --

2 MS. TOBIAS: Can I just get some clarification.

3 There is a chart on page 15-4 that does show other penalties
4 from other state agencies.

5 So, Mr. Paparian, are you looking for an analysis
6 of how they're using those fines or --

7 BOARD MEMBER PAPARIAN: What we're being told is
8 that \$15,000 is not an adequate deterrent.

9 And what I'm wondering is in the experience of
10 other agencies are they finding somewhere between zero and
11 \$15,000 and finding that that is in fact a deterrent.

12 MS. TOBIAS: We may also want to ask the LEAs
13 specifically to address that question as well, because I
14 think to a certain extent when they're not allowed fines
15 that have been imposed this appears a little bit to our
16 legal office as anecdotal or more of something that's kind
17 of a thought, as opposed to experience, because the fines
18 haven't been imposed in the first place.

19 So we can certainly talk to the other agencies and
20 that is something we can do.

21 BOARD MEMBER PAPARIAN: That's part of my point
22 too, that where we have had -- where we have put out fines
23 of less than \$15,000, in my view they have been a very
24 serious deterrent to actions that we don't like. So somehow
25 there seems to be a little bit disconnect here.

1 MS. TOBIAS: What I will do is I will talk to the
2 other agencies that are listed in here and talk to them
3 about their experience and try to come back to you with
4 that, but I think it might also be good to have the LEAs
5 focus in on that.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you.

7 And, Ms. Walz, from the AG's office.

8 MR. WALZ: An observation I make is that it's very
9 much easier for the state agency to carry these things out.
10 They are set up for administrative and civil agency they can
11 go ahead. If an LEA has to go to a DA who is saying it's
12 not a rape, it's not a murder, it's more difficult for them
13 to get the DA interested in the case.

14 There is, however, a group of under the California
15 District Attorneys Association, there is a working group
16 that works on environmental issues, both civil and criminal.

17 And I think if this matter were brought to their
18 attention, they have what are called circuit riders who go
19 out and help local DAs prosecute environmental problems,
20 both civil and criminal, and they might be able to provide
21 some assistance to the local DAs. So that's another
22 possible approach.

23 MS. TOBIAS: We are working -- actually we've had
24 more success, I think, as Edna is referring to, we have had
25 more success in the tire area of working with them and we do

1 have, I agree with that analysis, that it is difficult to
2 get the DAs to really focus in on things that they don't
3 feel rise high enough compared to their other caseload.

4 But the circuit prosecutors' program, I think, has
5 been successful. The board does contribute money towards
6 that program, or has in the past, so that has been, I think,
7 a successful way of doing it, but it still needs to be a
8 pretty big deal before it even gets to that point.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you for
10 bringing that up. I know my experience in Huntington Beach
11 is really difficult in drug cases to get DAs' attention,
12 unless it was really high on magnitude.

13 So I'd like us to look at all our possibilities.

14 Anything else on that?

15 MS. NAUMAN: Item 16 is the last item in this
16 section.

17 And this item brings forward for the board's
18 consideration as an opportunity to look at the board's PEP,
19 Policy, Permit Enforcement Policy. As you recall, the board
20 delegated staff direction in March to modify through
21 regulation language the PEP policy. We have tried our best
22 to reflect the intent of the motion that was made at that
23 meeting, as well as point out to you some thoughts that
24 we've had about the workability of some of the components of
25 that approach.

1 We're also in receipt of a letter from some
2 industry representatives that I received late yesterday that
3 also proposes modifications yet to be approached that you
4 had suggested in March.

5 We haven't had an opportunity to analyze their
6 suggestions yet, but we will be prepared to discuss all
7 those options with you next week.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you very
9 much.

10 Any speakers on this section of our agenda?

11 Okay. Then we'll move into Special Waste, and
12 Martha Gildart is going to be doing number 20 and 21, I
13 believe.

14 MS. GILDART: Correct.

15 BOARD CHAIR MOULTON-PATTERSON: There you are,
16 Martha.

17 And Shirley will be doing 22 through 27.

18 Thank you.

19 MS. GILDART: Good morning.

20 Item 20 is approval of the scope of work for the
21 contract to remediate the Westley tire fire site.

22 BOARD MEMBER PAPARIAN: I'm sorry. Madam Chair,
23 I'm a little bit lost. Is 19 pulled?

24 BOARD CHAIR MOULTON-PATTERSON: Oh, I'm sorry.

25 MS. NAUMAN: No, it has not been pulled. I failed

1 to -- I ended at 16.

2 Item 19, thank you for bringing that back to my
3 attention. This. Is an item we put on the agenda fairly
4 late because of some changed circumstances.

5 The board may recall that you approved loans under
6 the facility compliance loan program earlier this week, and
7 had granted or awarded all of the loan money available.

8 However, one of the jurisdictions, Glenn County,
9 decided not to pursue the loan that the board had awarded to
10 them.

11 So that frees up an additional \$500,000 in this
12 loan program that is only available to us until the end of
13 June, the end of this fiscal year.

14 We thought it important that we try to get back
15 before the board at this board meeting to give you the
16 opportunity to award that additional \$500,000.

17 There are two loan applicants that did not receive
18 full funding when you awarded the other loans in December
19 and January. Those include the County of Mono, and Si-Nor
20 in Los Angeles County.

21 So we are recommending to you that you consider
22 making the additional \$500,000 available to those applicants
23 in whatever appropriate amount you wish.

24 And we've included the table that we have in the
25 previous item, so that you can refresh your memory on what

1 the request was from those applicants and what the dollar
2 amounts were.

3 Any questions?

4 BOARD CHAIR MOULTON-PATTERSON: Okay.

5 MS. NAUMAN: Now I'm done.

6 BOARD CHAIR MOULTON-PATTERSON: Martha, item 29.

7 MS. GILDART: This is scope of work for the
8 Westley site.

9 If you recall, in adopting the board's five-year
10 plan for the waste tire management program, monies have been
11 allocated over the next several years for this particular
12 project.

13 This scope of work will be issued as a request for
14 qualifications where we will select a contractor to carry
15 out the various elements of the scope of work, and we will
16 be allocating those funds as each fiscal year comes, so it
17 will be a multi-year contract.

18 The scope of work covers the removal or
19 remediation of the five remaining debris piles on the site,
20 as well as any buried tires or hazardous material that is
21 discovered, possible treatment of contaminated waters, soil
22 sampling, site characterization work, and then final site
23 grading and construction to leave the site in as pristine
24 condition as we can.

25 The contractor will be asked to prepare workplans

1 showing the schedule and costs for each of these elements,
2 as well as health and safety plans and fire prevention
3 plans.

4 A little later today we're going to be presenting
5 board members with a slide presentation showing work that
6 has been done to date on Westley and what conditions are
7 now. Might give you a better idea of what the scope of work
8 is going to deal with.

9 Any questions?

10 BOARD CHAIR MOULTON-PATTERSON: Mike.

11 BOARD MEMBER PAPARIAN: Madam Chair, I have no
12 problems with this item, but I'm just -- it's \$10 million,
13 and I'm wondering if we should, maybe from counsel, whether
14 this is the sort of thing that we should be doing on consent
15 or not.

16 BOARD CHAIR MOULTON-PATTERSON: Why don't you pull
17 it.

18 BOARD MEMBER PAPARIAN: Again, I have absolutely
19 no problem with the item, but just given the size of it, I'm
20 wondering if we should maybe just --

21 MS. TOBIAS: Since this is the scope of the work
22 and not the award, that's why it's on consent. The board
23 can certainly take any item off the consent calendar with no
24 questions asked if they want to discuss it, but the award
25 would be on a regular calendar and not --

1 BOARD MEMBER PAPARIAN: I understand that.

2 MS. TOBIAS: If you want to look at it --

3 BOARD MEMBER PAPARIAN: Why don't we pull it off
4 on consent.

5 Again, I'm not bringing up any issues, but I just
6 think that given the magnitude that is here, that it makes
7 more sense to do it as a regular item.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you. So
9 we'll pull that off, number 20.

10 MS. GILDART: Item 21 is consideration of approval
11 of sites for remediation under the waste tire stabilization
12 and abatement program.

13 Now, this is our ongoing effort. We have an
14 existing contract with Supka to remediate illegal tire sites
15 that we have been unable to get the responsible parties or
16 property owners to clean up.

17 We are asking the board to approve the addition of
18 four sites to the list. They are listed on page 21-1. It's
19 the South Nash Hill Waste Tire Site, the Atwater Iron and
20 Metal Waste Tire Site, the Hamner Waste Tire Site, and the
21 James Waste Tire Site.

22 Pretty straightforward process.

23 Any questions?

24 MS. COLE: Martha, it looks like the costs for
25 each of these sites is about \$2 per tire, the remediation.

1 Is that just a standard that we're using?

2 MS. GILDART: Particularly for the smaller sites,
3 yes. When we were cleaning out sites that were two or three
4 hundred thousand tires, your cost per tire does drop. You
5 have sort of standard mobilization costs to get the
6 contractor out there, get the equipment out there and do the
7 work. So it's an estimate. It may come in slightly below
8 that, but due to the small size.

9 MS. BRUCE: Shirley.

10 MS. WILLD-WAGNER: I'm Shirley Willd-Wagner with
11 the Used Oil and Household Hazardous Waste Branch.

12 Item 22 presents staff's recommendations for
13 reducing the impact on health and safety that occurs from
14 use of antifreeze in California.

15 Staff has been researching this issue for about a
16 year, and in August we came to the board presenting some of
17 the research findings, and were directed to continue to
18 research the top alternatives for reducing the amount of
19 poisonings from antifreeze. So staff will present next week
20 three options for the board and will discuss each of the
21 options first during the presentation.

22 The first is to phase in and develop legislative
23 proposal to take a ban on sale of ethylene glycol
24 antifreeze, and promote instead the use of propylene glycol
25 formulated antifreeze, which is readily available and

1 significantly less toxic.

2 The second option is to develop a legislative
3 proposal to add -- to require the addition of an aversive
4 agent to the ethylene glycol based antifreeze.

5 And of course the third option is to further study
6 and bring back alternative recommendations.

7 We do expect presentation from industry, probably
8 manufacturers, perhaps recyclers, and also possibly
9 proponents of animal protection rights.

10 Are there any questions at this time?

11 Okay. Item 23 is the scope of work that's on
12 consent, and 24 is a companion item for the award of
13 contract to the California Conservation Corps. The scope of
14 work calls for the California Conservation Corps to continue
15 used oil recycling and outreach education campaign that they
16 have doing for the past four years. This will be the fourth
17 contract that staff is recommending that the board enter
18 into with CCC.

19 This item is for \$400,000. The primary focus of
20 the contract is to do school education and outreach in high
21 schools and support the Air Resources curriculum through our
22 schools section and secondarily to support local governments
23 in their used oil recycling education and outreach
24 campaigns.

25 As I said, 23 is on consent.

1 Any questions on those?

2 Item 25 is staff recommendation for the award of
3 grants for the household hazardous waste grant program for
4 fiscal year 2000-2001, the \$3 million available for the
5 grant program. And we received 39 applications for over 6.5
6 million in funds. So we have applied the criteria
7 established by the board and are recommending the award of
8 17 grants at this time.

9 And item 26 and 27 is another companion, the scope
10 of work of item 26 is on consent, and 27 is the award of
11 contract, and this is for the used oil recycling forum
12 contract to plan and coordinate the annual recycling forum.
13 This brings together local governments and nonprofit
14 organizations, businesses and vendors, involved in the used
15 oil recycling and it's an annual forum. It will be proposed
16 to be held in the fall and the award of contract is
17 recommended for California State University Sacramento.

18 Any questions?

19 BOARD CHAIR MOULTON-PATTERSON: Thank you very
20 much.

21 Any speakers?

22 So that does end your presentation?

23 Thank you.

24 Any speakers from the audience on Special Waste?

25 Okay. Administration and Policy, number 28. Who

1 is giving this report?

2 MS. JORDAN: I am. Terry Jordan with
3 Administration and Finance Division.

4 BOARD CHAIR MOULTON-PATTERSON: For some reason I
5 go beyond, my eyes go beyond that first row. Sorry, TJ.

6 MS. JORDAN: That's okay.

7 Item 28 is basically in response to board
8 direction from the April item where staff presented the
9 members of the board with a discussion on the Integrated
10 Waste Management Account fund status and projected revenues.

11 The discussion included a brief history of the
12 fee, the impact of inflation on the fees' purchasing power,
13 and a comparison between fee and average tipping fees
14 charged at California landfills and IWMA revenue projections
15 through fiscal year 2002-2003.

16 Agenda item 28 is just that, it brings back to the
17 board for consideration an increase to the integrated waste
18 management fee.

19 The item includes -- this particular item includes
20 recent Consumer Price Index changes since the April meeting,
21 as well as more recent economic forecasts for California.
22 So it's a little more updated information for you.

23 As in the April presentation, the item addresses
24 the fees' history, and all the above things I mentioned
25 earlier with regards to how it related to the April item.

1 And the projected revenues again are through fiscal year
2 2002 and '03.

3 As requested by the members, the agenda item
4 contains information on inert facilities, the three
5 permitted inert facilities, and the impact on the IWMA, the
6 sale of RMDZ program loans and what impact that might have,
7 and a brief discussion on the quantification of waste
8 exports.

9 The options for the board listed in the item are
10 three, and we will be amending that during the presentation
11 to include an additional option for the board.

12 And our recommendation is option 1 to increase the
13 fee to the maximum limit of \$1.40. That's under statutory
14 limit effective 7-1-02, 2002.

15 Are there any questions or comments?

16 BOARD CHAIR MOULTON-PATTERSON: Mike.

17 BOARD MEMBER PAPARIAN: What's the additional
18 option?

19 MS. JORDAN: We are going to put in language that
20 allows legislative proposal if the board so chooses.

21 BOARD MEMBER PAPARIAN: And July 1st versus
22 January 1st, is January 1st a possibility?

23 MS. JORDAN: It could be a possibility. What
24 we're looking at is there are two things that are important
25 here.

1 One is that the landfill operators will need time
2 to change their accounting systems, and it's been estimated
3 that might take about six months if the fee were imposed at
4 a greater amount.

5 And the other piece of this is we would need to do
6 for expenditure authority a BCP for fiscal year 2002 and '03
7 and those are currently under review right now, and will
8 be -- our agency has the time line of June, July and August
9 in looking at those. So we would have to prepare a BCP for
10 expenditure of those additional funds.

11 BOARD MEMBER PAPARIAN: If we didn't expend them,
12 then they would carry over?

13 MS. JORDAN: You would collect a reserve, a larger
14 reserve, which obviously has some dangers, especially with
15 special funds being looked at, since the General Fund is
16 under review right now as not being enough.

17 BOARD MEMBER PAPARIAN: Okay. Thanks.

18 BOARD CHAIR MOULTON-PATTERSON: Steve.

19 BOARD MEMBER JONES: Just a couple things.

20 And I have to thank staff, I wasn't at the April
21 meeting and they gave me a briefing on this last week. I
22 did have a couple of questions at that briefing.

23 One is if you look at our the expenditure -- or
24 the value of the \$1.34 right now, the current dollars, it's
25 a dollar-ten. If we did the cost of living it would be a

1 buck 65. There's a delta in between there that we need to
2 really look at that says what is the difference between that
3 loss of funds because of the reduction, and that delta
4 should be added on to the buck 65, probably get it up to
5 about a buck 90 and it gets people's attention, to think
6 about where we're going.

7 I'm not proposing a rate increase, but I think we
8 need to do that.

9 I also think that I appreciate that the
10 information on the waste export fee, or the waste export,
11 because we do have to look at -- well, let me back up.

12 As I understand this, even if we got this money,
13 this six cents, really according to the finance, we'd end up
14 probably having to put it into our reserve, because our
15 reserve is underfunded right now.

16 MS. JORDAN: Our reserve is underfunded and we
17 have operating budget issues.

18 BOARD MEMBER JONES: Right. So there's a good
19 chance that if we got this, we'd end up having to put it
20 into our reserves, so it wouldn't be dollars that we would
21 be able to use.

22 MS. JORDAN: We'd have to take a look at that. It
23 would be limited.

24 BOARD MEMBER JONES: Right. While it makes
25 finance happy -- and then I guess I have a question for

1 Michael Miller. The Waste Management-sponsored bill on the
2 inerts, where is that in the legislative process on
3 exclusion from fees?

4 MR. MILLER: My name is Michael Miller. That bill
5 is AB 173 by Chavez and that is in the Senate. I believe
6 that is in the Senate Environmental Quality Committee.

7 BOARD MEMBER JONES: Okay. So it's got a little
8 ways before it gets to the floor.

9 MR. MILLER: Yes.

10 BOARD MEMBER JONES: I think that there is a
11 couple of things that we need to talk about when we get to
12 this fee. One of them is the inert material.

13 The other thing is I saw a breakdown of one of
14 those inert sites that show 15,000 tons of inert material
15 being dumped, 475,000 tons is ADC. Scott Walker is not in
16 the room, but I always thought that ADC can only be used for
17 a portion of cover. But that's an awful lot of material to
18 either get diversion credit for or not pay fees on.

19 So I think that -- I think when we put this in
20 perspective, you have six cents that if it gives you \$2.3
21 million or whatever the number is may be directed to the
22 reserve. If it's directed to the reserve, it doesn't give
23 us anything for programs.

24 So I think we need to look at the inert material
25 and changing the point of collection for the out-of-state

1 waste so that we can capture what's really going on in the
2 state. I mean 15,000 tons of disposal, 475,000 tons of
3 diversion credit, to I guess bring the rate up when there's
4 some big chunks of concrete in there, does not meet a
5 standard that I've ever operated under.

6 So I think this is bigger than just the six cents
7 and really we need to look at the equity issues here,
8 because without export and without those other fees we don't
9 have anything to augment operational activities or just
10 regular spending, expenditure activity that we need to do to
11 operate this place.

12 MS. JORDAN: Certainly we can prepare some
13 information on the difference, the delta issue that you just
14 mentioned and we have been speaking with the Planning
15 Division with regards to the ADC issue, and I understand
16 staff will be available to help discuss this issue.

17 BOARD MEMBER JONES: Okay. I think it's important
18 to look at what we might really have needed at a buck 90, a
19 buck 85, whatever that delta is, which it's not going to
20 happen. It puts into perspective those other categories to
21 figure out how as a board we can deal with those policy
22 issues about what should be in and what should be out and
23 how much effort we're going to put in to changing that point
24 of collection on export, because those are real dollars that
25 can go into the fund.

1 So thanks.

2 BOARD MEMBER PAPARIAN: Madam Chair.

3 BOARD CHAIR MOULTON-PATTERSON: Yes. And then I
4 had a question.

5 BOARD MEMBER PAPARIAN: How short are we on the
6 reserve?

7 MS. JORDAN: Well, the Department of Finance calls
8 a prudent reserve around ten percent, and going into this
9 next fiscal year we have approximately 1.5 million, which is
10 fairly low as far as what they would like to see. They
11 prefer to see about at least four to five million dollars in
12 the reserve. We argue with them that, you know, that's a
13 little high bit and certainly we think could be a little bit
14 less. 1.5 is probably the lowest we've ever been. We like
15 to carry at least three million -- three to four.

16 BOARD MEMBER PAPARIAN: Okay. I'll let that go
17 for now. This opens up potentially a much longer
18 discussion, the appropriate forum for it, but I'll let that
19 go for now.

20 BOARD CHAIR MOULTON-PATTERSON: Just real quickly,
21 ten percent, is that what they apply throughout state
22 government? I always in cities and stuff it's five percent.
23 So ten percent is what?

24 MS. JORDAN: Is what Department of Finance quotes
25 us, yes.

1 BOARD CHAIR MOULTON-PATTERSON: And then my other
2 question was if, and it's certainly a big if, on the six
3 cents we've talked about devoting it to or earmarking it or
4 whatever for energy-related research or how we can help in
5 that energy area. Is that -- can we do that legally, take
6 six cents and say this is going to be for waste to energy or
7 any energy-related type things? Is that something that we
8 can do?

9 MS. JORDAN: Well, certainly the board has the
10 discretion to make the decision of what they want to do with
11 the revenues that would be coming in from the increased fee.

12 BOARD CHAIR MOULTON-PATTERSON: We could isolate
13 that part of it?

14 MS. JORDAN: You could isolate that, but my office
15 would recommend certainly that we take a broader look at the
16 board's budget, because we have been suffering in our
17 operating expenses simply due to the cost of inflation and
18 additional programs that we have taken on that had no
19 baseline funding.

20 So we have been more or less, excuse the
21 expression, eating that out of our budget, and we're
22 starting to feel and have been feeling that the price of
23 that, simply because the budget has been much much tighter,
24 and oftentimes we don't feel that we have enough to operate
25 on, travel, et cetera.

1 BOARD CHAIR MOULTON-PATTERSON: I understand that,
2 but I also feel that, you know, we've never had a crisis
3 like this.

4 MS. FISH: Could I also clarify that. In order
5 for the board to be able to spend an additional fee, you
6 would have to submit a BCP and ask the Legislature for that
7 authority increase, and so as a part of that BCP process,
8 with the board going forward through the administration, you
9 would then ask for the authority to be raised and then
10 propose an energy-related solution. That's how that would
11 work.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you.

13 MS. JORDAN: The timing on that is that we're
14 currently in the middle of the fiscal year '02-03 BCPs, and
15 so if the board chose to make the decision to increase the
16 fee, the decision on how to spend that increase would be
17 through the BCP process.

18 BOARD CHAIR MOULTON-PATTERSON: Still learning.

19 Thank you.

20 Thank you very much, TJ.

21 I don't see any other questions on that.

22 Item number 29.

23 MS. PACKARD: Thank you, Madam Chair. Rubia
24 Packard, Policy office.

25 This item is a presentation on environmental

1 justice.

2 What we're going to be trying to do with this item
3 with the board is a couple things.

4 One is that the board had indicated at a previous
5 meeting that they were interested in adopting some type of
6 language that directs or makes a statement about what the
7 board's intent is relative to environmental justice. And so
8 the item is structured to allow the board to either adopt
9 existing Cal EPA mission statement language, which is draft,
10 or give us additional direction to develop a specific board
11 mission statement about environmental justice or to utilize
12 existing language that's been developed through the
13 strategic planning process about environmental justice. So
14 we'll be asking the board to give us some direction in that
15 area.

16 And then the second area that we'll be asking for
17 direction from the board is in terms of the tasks that we've
18 laid out relative to taking us from now through a process
19 where we would develop and adopt strategies to implement
20 environmental justice program within our internal programs.

21 So there's two things there that we'll be asking
22 for.

23 The only other thing I want to mention is that we
24 have been working closely with Cal EPA, and the, I believe
25 it's the assistant secretary for environmental justice,

1 Romel Pascual, on this process, what we should -- what is
2 recommended that we do and how to go about it and how to
3 integrate that Cal EPA's efforts has. Romel asked that he
4 be allowed to make a brief statement to the board. So we'll
5 be doing that also as part of the agenda item next week.

6 So do you have any questions?

7 BOARD CHAIR MOULTON-PATTERSON: I don't see any.

8 Oh, excuse me, Mike.

9 BOARD MEMBER PAPARIAN: All right. The work plan
10 basically for soliciting input and coming back next February
11 or March, next spring, with recommendations, there are a lot
12 of things that could be happening on environmental justice
13 between now and then, affecting permitting processes, grant
14 making processes, and so forth.

15 Is it the staff's intention that those things
16 would be put on hold or not dealt with until we got these
17 recommendations back from these working groups, or are these
18 working groups looking more at the general mission statement
19 and general policies as opposed to how things might
20 specifically be carried out in the divisions?

21 MS. PACKARD: No. The working groups that would
22 be put together after the Cal EPA external stakeholder
23 process that we would be part of would be working on
24 specific program areas and specific strategies and making --
25 crafting specific recommendations to the board about how to

1 deal with environmental justice concerns in the specific
2 program areas.

3 So does that answer your question?

4 BOARD MEMBER PAPARIAN: The question has come up,
5 for example, whether environmental justice can be considered
6 in the permitting process.

7 And I understand there's legal differences of
8 opinion whether we're, you know, we have to turn a blind eye
9 to environmental justice in our permitting process, or
10 whether it's possible to include environmental justice in
11 the permitting process.

12 MS. PACKARD: Right. That would be part of the
13 analysis that the groups would be doing.

14 The intent here on the structure is that we get
15 the broad input with Cal EPA and all the other boards and
16 departments, and Cal EPA through statute has been directed
17 to put together an overall strategy for all of the Cal EPA
18 boards and departments on how we're going to address
19 environmental justice.

20 So that's why we're recommending that we
21 participate in that process, we work through the Cal EPA
22 internal working group to help craft that framework, and
23 that policy direction, and then we internally take that
24 policy direction and look at all of our programs and say,
25 yes.

1 In permitting we heard throughout all this process
2 that we need to address permitting, so then the permitting
3 folks look at permitting and they describe their programs
4 and they analyze their programs and they identify strategies
5 to incorporate environmental justice concerns or how to take
6 care of environmental justice issues. They craft
7 recommendations of that to the board about how to do that in
8 that specific program. That's what would come back to the
9 board.

10 BOARD MEMBER PAPARIAN: It seems like there's some
11 threshold questions, like are we able to apply environmental
12 justice considerations to our permitting process or not.

13 MS. PACKARD: You mean, like regulatory and
14 statutory questions? That would be part of that analysis at
15 that time by those work groups in the permitting area.

16 BOARD MEMBER PAPARIAN: Are we going to then have
17 some legal experts as part of the work groups?

18 MS. PACKARD: Absolutely, yes.

19 BOARD MEMBER PAPARIAN: Okay. And who are we
20 drawing the legal experts from? Where are we drawing the
21 legal experts from? Who?

22 MS. PACKARD: Hopefully from the legal office
23 interally. These would be internal workers --

24 BOARD MEMBER PAPARIAN: Internal work, okay.

25 MS. PACKARD: Internal workers.

1 BOARD MEMBER PAPARIAN: Are we going to be
2 soliciting that externally too, or no?

3 MS. PACKARD: Our intent with this particular
4 series of tasks is for us internally to take the first cut
5 based upon the external feedback that we've received. So
6 our internal work groups, including attorneys and the
7 program folks, take the first cut at crafting a scheme for
8 strategies for addressing environmental justice concerns in
9 that area, and the legal office then would have input into
10 that as to whether we need -- whether we have the existing
11 regulatory and statutory authority to do whatever it is
12 they're proposing or recommending.

13 The work plan that's included in here then
14 proposes that we take those strategies back out to our
15 stakeholders and other interest groups, and but focused
16 groups, rather than the broader group that we're doing with
17 Cal EPA, and have them give us feedback on that.

18 Hopefully at that time we would get some
19 additional feedback on the regulatory and statutory aspects
20 of that analysis as well.

21 And that based upon that input from the focus
22 groups, we would come back to the board with a final
23 recommendations on where we feel we can and should address
24 environmental justice and the steps that we would need to do
25 that, which may include regulatory or statutory changes.

1 BOARD MEMBER PAPARIAN: Okay. I guess this is for
2 the legal office.

3 This process envisions something happening next
4 spring. Are there requirements on this board involving
5 environmental justice that we ought to be considering in
6 what we do before next spring?

7 MS. TOBIAS: I think that the, as I recall, that
8 the legislation really anticipates the process that Ruby is
9 talking about as far as Cal EPA carrying this out.

10 I think that's where they put the responsibility.
11 We can certainly give you a memo that kind of analyzes the
12 existing legislation and maybe a little bit of the
13 legislative history on these bills as they went through,
14 because there were a number that did attempt to go further
15 that were not successful, and this is the one that basically
16 was signed. So if it would helpful to go back over that, we
17 can certainly do that.

18 BOARD MEMBER PAPARIAN: So in our consideration in
19 grant making and, say, siting transfer stations, what I
20 think I'm hearing is that the staff believes that there
21 aren't any environmental justice requirements that would
22 force us to consider environmental justice between now and
23 next spring as we consider items like this.

24 MS. TOBIAS: I haven't looked specifically at the
25 grant aspect of it, and I don't know if Rubia has, and I

1 also have Debra Sawyer here, who has been working on
2 environmental justice for our office. We have looked at the
3 permitting issue and we do not believe that the legislation
4 anticipates that the board would take this into
5 consideration at this time.

6 BOARD MEMBER PAPARIAN: Okay. And the legislation
7 as well as whatever federal requirements there might be?

8 MS. TOBIAS: Uh-huh.

9 BOARD MEMBER PAPARIAN: Is there any disagreement
10 amongst legal experts on this?

11 MS. TOBIAS: Not that I'm aware of.

12 BOARD MEMBER PAPARIAN: Okay. Thanks.

13 MS. PACKARD: If I can add one thing, it sounds
14 like your concern is that this is going to take too long to
15 get to a point where actually maybe implementing some
16 specific things to address some of the areas that you're
17 concerned about.

18 And I am aware that we have begun to incorporate
19 language as suggested by Mr. Medina into some of our grants
20 solicitations.

21 So I think that there may be, as we go, things
22 that the board decides they do want to proceed with sooner
23 rather than later.

24 The reason that this is laid out the way that it
25 is is so that we can present you with options on the bigger

1 issues like the whole permitting process in a way that
2 incorporates both Cal EPA direction and input, external
3 direction and input or comment or suggestions, and then
4 provides for an analysis, because this is all pretty
5 complex. It's very -- it's complex and there's a lot of
6 different ideas about what we can and can't or should or
7 shouldn't do.

8 So there may be opportunities along the way is all
9 I'm saying to you to continue to add language like we used
10 for the grant solicitations that begin to address some of
11 the areas that might ultimately also be addressed through
12 this process.

13 MS. TOBIAS: Madam Chair, can I add one thing.

14 I would say, let me just add to my last answer,
15 and that is I'm not aware of any disagreement on a legal
16 basis. I don't know any other attorneys or legal offices
17 that are taking a position that says that we do have or that
18 they have the ability to incorporate environmental justice
19 into their permits.

20 I am aware that there have been suggestions from
21 other areas that perhaps this board or other boards or
22 departments take a more affirmative approach towards it, and
23 incorporate environmental justice into it.

24 I don't see that basis in the statute myself, and
25 I'm not aware that there are any other attorneys who have

1 taken a position that there would be the ability to
2 incorporate into the permitting.

3 BOARD CHAIR MOULTON-PATTERSON: Arturo.

4 MR. ALEMAN: Mike, I understand right now that the
5 Legislature is considering some bill or other that requires
6 environmental justice in the local jurisdiction processes.

7 MR. MILLER: Two bills on the environmental
8 justice. One bill is by Assemblymember Keeley that does
9 environmental justice at the local level. There's another
10 bill that deals with the working group and changes some of
11 the dates.

12 MR. ALEMAN: If that legislation is implemented,
13 how would that affect our permitting processes now, and how
14 would that affect our planning processes for environmental
15 justice in terms of coming up with a policy or a
16 environmental justice methodology?

17 MR. MILLER: I would need to sit down with program
18 staff and go over that more and answer for you at the board
19 meeting. But we've been looking at that bill and I can get
20 that for you.

21 MS. TOBIAS: I can respond to a general level.

22 There's a big -- one of the big issues is where
23 and how do we put environmental justice into the regulatory
24 process. And I think a lot of folks do advocate putting it
25 into the local process where the siting of these facilities

1 often takes place at the use permit level. That's where the
2 greatest amount of flexibility or restriction is available
3 through that land use permit.

4 So I think that if that bill succeeds in the form
5 that I'm aware of it going through where it basically says
6 that the general plan process needs to deal with it, I'm
7 assuming that they'll put in a requirement to do it within X
8 amount of time, and at that point I think we can basically
9 be working with jurisdictions on that.

10 But then it still won't necessarily be
11 consideration at the board level, but it will be in at the
12 general plan level, which would affect any siting that would
13 take place at the local level.

14 So I'm not sure it addresses as much as the board
15 may want to do about environmental justice, but it would put
16 it into where the siting of these uses really kind of hits
17 first.

18 MS. PACKARD: There are other areas that we could
19 look at relative to our permitting process. And that could
20 make -- add on to that if that bill passes, that would add
21 on to that. There might be other opportunities for us to
22 strengthen environmental justice, addressing environmental
23 justice in our permitting process at different places that
24 we are in control of.

25 BOARD MEMBER PAPARIAN: I just heard, though, that

1 we -- I thought I heard that really isn't an option for
2 addressing environment justice in the permitting process and
3 you're just saying there is.

4 MS. PACKARD: Some of the options that I'm talking
5 about are probably ones that Kathryn is not talking about.
6 It's the changing our regulations to require certain things
7 in area A plans, for example, things that we already
8 require, but promulgating regulations that require more
9 information, for example, in plans, et cetera.

10 So that things that are not to the extent of
11 denying or not concurring in a permit based upon
12 environmental justice concerns, it's other, more
13 administrative kind of things that we can do to strengthen
14 the process all along the way.

15 I am sure that's not what Kathryn was talking
16 about.

17 MS. TOBIAS: I would agree with what she said.

18 I think there also may be, you know, continuing
19 interest based on what Rubia is saying with the working
20 group, looking at the grants and the kinds of things that
21 the board does with money that, you know, might be able to
22 move more quickly in the environmental justice side as
23 opposed to the siting side, which I think there is still a
24 lot of disagreement on how that might best be implemented.

25 So I think that her working group has probably

1 worked on an area where we probably have a little bit more
2 flexibility or ability to deal with these in our regulations
3 than we do on the permitting side of things.

4 BOARD MEMBER PAPARIAN: Do we have anything that
5 describes what this language is, what the law says, what it
6 might or might not mean in terms of what we do?

7 MS. TOBIAS: What the legislation says?

8 BOARD MEMBER PAPARIAN: The things that are passed
9 and enacted.

10 MS. PACKARD: You mean on the two bills that we've
11 been talking about?

12 BOARD MEMBER PAPARIAN: Yeah.

13 MS. PACKARD: There's the legal office did an
14 agenda item, I believe it was November last year, an agenda
15 item, that talks quite a bit about both of those bills, and
16 then the agenda item that's attached to this current agenda
17 item also summarizes even more briefly both of those pieces
18 of legislation and what they require of Cal EPA and
19 subsequently or eventually at the boards and departments.

20 BOARD MEMBER PAPARIAN: Just for my ease of
21 finding it is part of the agenda item from last November or
22 would that have --

23 MS. TOBIAS: We can get you a copy right after the
24 briefing.

25 BOARD MEMBER PAPARIAN: Thanks.

1 BOARD CHAIR MOULTON-PATTERSON: Steve.

2 BOARD MEMBER JONES: The legislation that's being
3 carried on the local level, can we -- do we -- have we
4 already gotten copies of that? I may have missed it.

5 MR. MILLER: Yes, your office received a copy.

6 BOARD MEMBER JONES: Okay. Because I want to look
7 at it, because that CUP process, whether -- if it's an
8 update to the general plan, it could also -- that
9 legislation would also require that when they're getting a
10 CUP --

11 MS. TOBIAS: It has to be consistent with the
12 general plan.

13 BOARD MEMBER JONES: Exactly. So it would address
14 those issues.

15 Because I always look at -- I always remember that
16 discussion we had with Senator Roberti on demographics and
17 how they change. And, you know, I mean at the local level,
18 those are elected officials that have to deal with that
19 constituency that, you know, I mean these environmental
20 justice issues need to be part of that CUP process, make
21 sure that it's fair and equitable.

22 You look at Richmond Sanitary Landfill, when it
23 was built it was in almost 100 percent Italian community.
24 Then it turned into an African community. Now it's Hispanic
25 and African American. So things change, but they change at

1 the local level, where we're not aware, you know.

2 But at the time that was an entirely Italian
3 community when that thing was built, and that was -- that
4 town was predominately Italian American and Irish, so you
5 know, if it's at the local level, to me, it makes a lot of
6 sense and then we can use that to make sure that the CUP
7 process was followed or that, you know, CEQA was followed.
8 Because it would be part of CEQA, right?

9 MS. TOBIAS: Actually that's one of the disputes
10 that's gone on is where is the most appropriate place to
11 deal with this. I think a lot of the environmental
12 community feels that environmental justice, per se, is not
13 necessarily a physical impact on the environment.

14 There's a huge body of law that's grown up over
15 the last 20 to 30 years on CEQA which deals with all the
16 physical impacts, so that's why you have these bills going
17 on. There's already been a bill, I believe last session,
18 when this one was approved, that did attempt to put it into
19 CEQA or at least it was proposed.

20 As I understand, there's a lot of opposition to
21 that, but the general plan requirement is one that seems to,
22 I think, have some interest or seems to be moving.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you.

24 Move on to item 30, strategic plan.

25 MS. PACKARD: Agenda item 30 is a discussion of

1 and request for direction on the vision, mission, values and
2 goal elements of the board's 2001 strategic plan.

3 And on this one, I just want to highlight again
4 that what we are doing with this item is requesting
5 direction from the board on the existing items that have
6 been developed based upon the internal and external
7 stakeholder meetings and upon individual meetings with board
8 members to determine what they heard at those stakeholder
9 meetings and what their direction was to us in drafting
10 these.

11 Again, we're requesting direction so that we can
12 utilize these four elements to draft the rest of the plan.
13 The rest of the plan will be the objectives, strategies and
14 performance measures, and we wanted to make sure that we had
15 board agreement that we have captured your direction
16 accurately in these elements before we proceeded to draft
17 objective strategies and performance measures based upon
18 these elements.

19 So that's what we'll be requesting. We won't be
20 asking adoption, because this is not the final plan and it's
21 not the full plan. That will come to you in the fall. But
22 just rather direction and give us a go-ahead on the process
23 that we'll describe to finish drafting the plan.

24 BOARD CHAIR MOULTON-PATTERSON: Okay.

25 BOARD MEMBER JONES: Madam Chair.

1 BOARD CHAIR MOULTON-PATTERSON: Steve.

2 BOARD MEMBER JONES: Just quick comment that I
3 want to throw out to my fellow board members.

4 First off, I think this is very good.

5 At that board meeting, or I guess it was external
6 stakeholder meeting, when we talked about zero waste, people
7 thought that meant recycling hundred percent of the waste
8 stream, as opposed to changing the way people look at their
9 jobs and they're trying to be as efficient as possible.

10 When we talked about this strategic plan, a vision
11 statement needs to be something that's quick, concise, to
12 the point and gets people's attention, and really can't have
13 an explanation behind it.

14 So I would just offer that at the board meeting
15 I'm going to make a motion, or I'm going to try to change
16 from a zero waste California, to a sustainable California,
17 because the zero waste needs an explanation, and you can't
18 put that explanation in a vision statement, because then it
19 becomes more of a part of values and it just doesn't work to
20 explain what zero waste means.

21 But what I think we can deal with it later in the
22 values and then as the strategic plan opens up to really
23 talk about a change in the way people do their jobs, the
24 efficiencies that are involved, so that we're generating
25 less waste, which really ultimately gets you to a zero waste

1 society.

2 I just wanted to tip members off that I'm going to
3 try, I don't know how you feel about that, a sustainable
4 California relies on us getting to zero waste. But it's an
5 easier word.

6 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you.

7 Does Cal EPA -- I know we had a time line and then
8 there's some reasons that we pulled it off and all that,
9 they're okay with when we will be getting the final document
10 to them?

11 MS. PACKARD: I won't represent that they're okay,
12 but they're aware of that, we will be a little bit behind
13 the original time line. They didn't seemed to have any
14 major problems with that when I let them know what the time
15 line was.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you.

17 MS. PACKARD: Thank you.

18 BOARD CHAIR MOULTON-PATTERSON: Any public
19 speakers for Administration and Policy part of our agenda?

20 We'll go right into Waste Prevention and Market
21 Development.

22 Patty.

23 MS. WOHL: Patty Wohl.

24 We have four items to present at the next board
25 meeting.

1 The first one is item 31, which will be on consent
2 or is proposed for consent. It is a scope of work for the
3 Native American Intergovernmental Greening Project, which is
4 to develop guidelines for native American communities.

5 BOARD MEMBER MEDINA: I do want to commend the
6 staff for the excellent work that they have done in putting
7 this together.

8 MS. WOHL: Thank you. I will pass it on to them.

9 BOARD CHAIR MOULTON-PATTERSON: And thank you,
10 Jose, for your leadership.

11 MS. WOHL: Then item 32 is consideration of
12 approval of contractor for the plastics white paper
13 contract. And I believe Deborah McKee has passed out --
14 staff reviewed proposals yesterday and is looking to award
15 the contract to NewPoint Group Inc. We've provided you with
16 a profile on that company.

17 And then as part of that, we revised the
18 resolution to add their name into that resolution.

19 So this gives you some information on this
20 company.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you.

22 MS. WOHL: And item 33, we went out with 28
23 businesses and we're bringing forward 22 that have been
24 willing to sign compliance agreements, so you have that list
25 here.

1 Then two that we're proposing for public hearings,
2 they're at the very bottom of that list, Botanical Science
3 and Sierra Sod and Supply. We have not had any response
4 from them. So this will be the first that, you know, upon
5 your approval then we would send them a notification that
6 they're going to be scheduled for a hearing.

7 Are there any questions on that?

8 BOARD CHAIR MOULTON-PATTERSON: Mike, go ahead.

9 BOARD MEMBER PAPARIAN: Just on those last two.

10 Have they been made aware in some way that this is
11 coming up to the board?

12 MS. WOHL: We have made multiple contacts with
13 them either by phone or letter to ask them to contact us and
14 work through a compliance agreement, and they have not
15 responded. And some of those letters have gone return
16 receipt and things like that.

17 So what our plan is is based on the outcome of
18 this item, then we would send them another letter saying
19 you'll be scheduled for a hearing and then hopefully there's
20 potential that they would be willing to sign a compliance
21 agreement at that time.

22 BOARD CHAIR MOULTON-PATTERSON: Thank you.

23 MS. WOHL: The last item will be a discussion
24 item, proposing the concept of using a prospective rate for
25 all containers in the PET rigid plastic packaging container

1 recycling rates.

2 So the final item forward to the board several
3 months ago that had this as one component of several and we
4 sort of held off on this one and the board asked that we
5 bring this back for a more thorough discussion just on this
6 concept.

7 So this is sort of that discussion item to say are
8 you interested in looking at the concept of a prospective
9 rate for this use, and then we would bring an item back
10 again with consideration if you so wished.

11 BOARD CHAIR MOULTON-PATTERSON: Questions?

12 Thank you. Any speakers on Waste Prevention and
13 Markets?

14 Okay. Lorraine, are you going to be doing
15 Diversion, Planning and Local Assistance?

16 MS. VAN KEKERIX: Item number 35 is on consent
17 regarding Ventura County.

18 Item number 36, is the --

19 BOARD CHAIR MOULTON-PATTERSON: Steve.

20 BOARD MEMBER JONES: Lorraine, just a quick
21 question.

22 MS. VAN KEKERIX: Yes.

23 BOARD MEMBER JONES: Ventura, as Elliot knows, has
24 taken approximately three years. Well, it's taken longer,
25 but three years, I think, of -- three or four years since

1 I've been here.

2 MS. VAN KEKERIX: Six years that I've been doing
3 it.

4 BOARD MEMBER JONES: Six years to get this in this
5 position. Everybody is happy. Everybody got what we need,
6 which is the correct CEQA document.

7 MS. VAN KEKERIX: Right.

8 BOARD MEMBER JONES: And they're okay with doing
9 this on consent?

10 MS. VAN KEKERIX: As far as I know.

11 BOARD MEMBER JONES: I only ask because of the
12 effort.

13 MS. VAN KEKERIX: As far as I know they are.

14 BOARD MEMBER JONES: I am too. I just figure when
15 you invest that much, we might just want to ask.

16 MS. VAN KEKERIX: If you'd like me to double
17 check, I can.

18 BOARD MEMBER JONES: Yeah. If they don't want to
19 come up, it's fine with me, believe me, but it's been pretty
20 contentious, so who knows.

21 BOARD CHAIR MOULTON-PATTERSON: 36.

22 MS. VAN KEKERIX: Okay. 36 is regarding Mono
23 County. And staff is recommending that they be found to
24 meet their compliance order. They have found where their
25 problem was in the numbers. They had issues with the

1 disposal reporting system. Staff has made a site visit to
2 investigate, and they have installed a scale on one of their
3 largest landfills out there so their numbers issues should
4 be resolved.

5 They are implementing their source reduction and
6 recycling element and their household hazardous waste
7 element.

8 This is very similar to the Mammoth Lakes item
9 that you heard recently.

10 And staff recommends taking them off the
11 compliance order and approving the '97-98 biannual review.

12 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you.

13 MS. VAN KEKERIX: Item number 37 is the model
14 source reduction and recycling element. This model was
15 required by SB 2202, and the deadline for having the model
16 was July the 1st of 2001.

17 This model is based upon the certification forms
18 that have been used for new base years, which the board has
19 discussed extensively.

20 It is designed to delete repetition and streamline
21 the source reduction and recycling element that was a big
22 problem originally, and it will also, because it's a
23 standardized format, be a lot easier for the staff to review
24 and board members to follow when they're looking at them.

25 And any questions?

1 BOARD CHAIR MOULTON-PATTERSON: I don't see any.

2 Thank you very much, Lorraine.

3 Any public comments on Diversion, Planning and
4 Local Assistance?

5 Okay. Last item, Michael Miller, legislation.

6 MR. MILLER: Michael Miller, Legislative and
7 External Affairs Office.

8 At the board meeting on Wednesday I will have for
9 you a brief report on where legislation is right now.

10 Currently the bills are all in the second house.
11 They passed the deadline for that, so we have a pretty good
12 idea of what bills are moving and where things are going. I
13 have a short list for you of bills that we're looking at and
14 watching that are held, or two-year bills, and will have the
15 bills that are moving along at the next meeting.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you.

17 Any final public comments before we move to the
18 next portion of our agenda?

19 Seeing none, then we'll go to item 3, update of
20 the Westley tire site remediation. This is an oral
21 presentation.

22 MS. GILDART: This item will be presented by
23 Albert Johnson, Special Waste Stabilization Program.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you.

25 Good morning.

1 MR. JOHNSON: Good morning, Madam Chair. See if
2 we can get the computer on here.

3 BOARD CHAIR MOULTON-PATTERSON: Excuse me. I'm
4 very sorry. I forgot, we're trying to get through this, but
5 I forgot about you and I apologize.

6 We'll take a very short ten-minute break.

7 (Thereupon a short recess was taken.)

8 BOARD CHAIR MOULTON-PATTERSON: Let's get started
9 again.

10 We're on discussion item, update of the Westley
11 tire fire remediation. Oral report on this.

12 Mr. Johnson.

13 MR. JOHNSON: Good morning, Madam Chair and
14 members of the board. My name is Albert Johnson. I'm in
15 the Special Waste Division and the project manager for the
16 Westley tire fire site.

17 Next week you'll have the opportunity to consider
18 agenda item 20, which is for the approval of the scope of
19 work for a contract to continue remediation of the site.

20 Today I'd like to give you an update of the work
21 that we've accomplished to date and what needs to be done.

22 This is an overview of the site here, and I'd like
23 to point out the geography. This is the outlet of the
24 canyon and this is part of the lower part of the drainage
25 basin. What we see in this basin is about 250 acres of

1 land. Here's the power plant. Here's the tire pile prior
2 to the fire. Base is defined by the ridge lines of these
3 hills. And down to the southwest here we have an additional
4 420 acres of drainage basin that flows down. There's the
5 main canyon down here and through the site and continues on
6 out the mouth of the canyon.

7 On September 22nd, 1999, lightning struck the tire
8 pile, and the fire began.

9 The US EPA was the lead agency to extinguish the
10 fire and it was put out in 34 days.

11 As the fire was burning, the waste management
12 board mobilized their waste tire stabilization and abatement
13 contractor, Norcal, and we began emergency winterization
14 work, because we saw the need to control the runoff water
15 from the upper drainage basin and the potential for that
16 water flowing through contaminated soils and debris.

17 The winterization work consisted of the
18 construction of two dams, a pipeline, did some grading work,
19 and we also removed some contaminated water.

20 Here's a picture of check dam M-1. This dam is
21 about 12 feet high. It functions as a diversion structure
22 and picks up the runoff from the main drainage basin, the
23 main channel there.

24 There's about 320 acres or so that flow behind
25 this dam that flow into the pipe.

1 Here's the other dam we built. This is in the
2 southeast canyon. There's about 85 acres of drainage behind
3 this. That water is diverted into the pipe.

4 Here's a picture of the pipeline as it goes across
5 the site. The pipeline bypasses the burn area, debris pile
6 2 and 7, and discharged the water downstream as clean water.

7 After we finished the winterization work, there
8 was quite a few tires that were unburned, not involved in
9 the fire at all, and we went in there and shredded and
10 sheared those tires as necessary. There's a lot of OPRs and
11 agricultural tires. And we hauled these tires to the Fink
12 Road Landfill, which is the county-run facility.

13 There's about 6100 tons that were removed for a
14 cost of \$1.74 million approximately.

15 Of the 6100 tons, 1500 tons eventually went to
16 Altamont as ADC and another 1200 tons or so were burned in
17 the MELP facility, when it was running.

18 Here's a picture of the unburned tires before
19 we -- again, this is actually as we first began the
20 remediation.

21 And here's a picture of what it looks like today.

22 So here's the before picture and here's the after
23 picture.

24 Once we completed that work, we went ahead and in
25 the debris pile 2 area, which is the main burn area, there

1 was quite a few tires that were relatively clean with not
2 much soil or ash mixed with them. We saw that these could
3 also pose a potential fire threat. We determined these
4 tires to be altered and we hauled them off to the Forward
5 Landfill in Manteca.

6 Here we removed about 4700 tons for a cost of
7 \$522,000.

8 So here's what it looks like after the removal.
9 This is about at ground level. That's level with the pipe.

10 And here's a picture of the before.

11 As that work was being wrapped up, DTSC mobilized
12 their contractor and they worked on ponds 3 and 4. Ponds 3
13 and 4 were two ponds that were used as part of the fire
14 fighting effort that quenched the tires to extinguish them.

15 Once the material was quenched it was loaded into
16 off-road dump trucks and dumped into debris piles around the
17 site.

18 DTSC removed about 15,000 tons of material. It
19 also went to the Forward Landfill, the sludge and
20 contaminated soil, for a cost of \$640,000.

21 Here's ponds 3 and 4 in the foreground. This is 3
22 and this is 4. You can see the contaminated water. This is
23 pond 1 for reference.

24 And this is pond 2. Pond 2 was built by the US
25 EPA to help control stormwater runoff, although pond 2 had

1 never contained any contaminated water to date, or we were
2 able to control the water without ever reaching there.

3 So here's before the work was done and this is
4 what it looks like today after that removal.

5 Pond 1 down here was cleaned up by one of the
6 responsible parties. Pond 2 was always clean. 3 and 4 have
7 been completely excavated and they're determined to be
8 clean.

9 From this point out of the bottom of the canyon
10 all runoff would be clean runoff.

11 So here's before and after pictures again.

12 The last task that we completed was we removed
13 debris pile 3. Debris pile 3 was debris that was quenched
14 from those ponds, and then like I said loaded and hauled and
15 dumped on the site. We removed about 26,000 tons for a cost
16 of \$926,000.

17 Here's debris pile 3 on the right-hand side here.
18 There's a lot of soil mixed with the ash and remnants of
19 tires.

20 This is debris pile 3 area today where it's been
21 removed.

22 Here's the before picture and the after picture.

23 Some of the work that's been completed we spent in
24 excess of four and a half million dollars on the
25 winterization. The unburned tire remediation, the burnable

1 tire remediation, the pond work funded by DTSC, the Waste
2 Board paid for that. And the debris pile remediation of the
3 debris pile 3.

4 The five-year plan allocates \$10 million to
5 complete the remediation of the site.

6 The remaining tasks include removal of the debris
7 piles 2 and 7. Those are in the burn areas, the actual
8 footprint of the burn area that still exists. These piles
9 are underlain by pyrolytic contaminated soil and it will
10 also need to be remediated.

11 Evaluation of the groundwater contamination, that
12 is sort of ongoing. There's a couple of wells out there
13 already that have been sampled a few times, and we'll
14 continue that.

15 Then we will remove debris piles 1, 4 and 6.
16 Those are very similar to debris pile 3. Material was
17 excavated out and placed around the site. They pose less of
18 an environmental threat than debris piles 2 and 7 that were
19 in the main burn area.

20 We'll also evaluate the extent and potential
21 threat of subsurface buried tires at the site.

22 Here's an overview of the entire site so you can
23 see where the debris piles are. This is debris pile 1,
24 which still exists. Here's debris pile 2 and 7, is kind of
25 the tail end of it. This is the burn area. This is debris

1 pile 3, which has been removed. This is debris pile 4,
2 which still exists. And this is 6, which is relatively
3 small. That's still out there.

4 This is a good picture to show how the pipeline --
5 this is the main canyon and the southeast canyon where the
6 pipes come together, run parallel and bypass the entire burn
7 area, and they discharge actually right off this picture.
8 This picture was taken while the pipeline was under
9 construction in December of '99.

10 He's a closer view of debris piles 2 and 7. 7 is
11 in the foreground here and 2 is in the background.

12 Give you an idea, this is the burn area itself.

13 Our schedule for approval of the contract is to,
14 of course, bring the scope of work before you next week at
15 the board meeting.

16 Then in July and August we will work on the RFQ,
17 get it out and select a contractor and come back in
18 September to get the contract approved.

19 Then once the contract is approved, we'll begin
20 work in debris piles 2 and 7 because they pose the greatest
21 environmental threat. We probably can get that work done by
22 summer 2002. Of course it will depend on conditions in the
23 winter that may slow excavation.

24 Then we'll go ahead and remove the contaminated
25 soil from below those debris piles and then we'll go on and

1 remove debris piles 1, and 4 and 6. And, you know, look at
2 the subsurface buried tires at that time as the last task.

3 That ends my presentation.

4 I'd be happy to answer any questions that you have
5 with respect to the project.

6 BOARD CHAIR MOULTON-PATTERSON: Steve.

7 BOARD MEMBER JONES: Thank you, Madam Chair.

8 This presentation today, you're not making this
9 presentation at the board meeting; right?

10 MR. JOHNSON: I don't know.

11 BOARD MEMBER JONES: Well, just in case, I want --
12 I think on behalf of all the board say, Albert, you, Bob,
13 Fuj and all the other folks in your group did a great job
14 here. I mean that debris pile that cost us \$926,000 when
15 you look at that, that's \$35 a ton.

16 MR. JOHNSON: It's a good deal.

17 BOARD MEMBER JONES: You guys did great.

18 MR. JOHNSON: I know.

19 BOARD MEMBER JONES: And that's really getting
20 some work done and getting the most for the dollars that
21 were available. You need to be commended.

22 MR. JOHNSON: Thanks a lot. I appreciate it.

23 (Applause.)

24 BOARD CHAIR MOULTON-PATTERSON: Thank you very
25 much. We all echo Mr. Jones' comment.

1 Thank you.

2 MR. JOHNSON: All right. Thanks.

3 MR. LEARY: Madam Chair, if I might --

4 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr. Leary.

5 MR. LEARY: -- recognize our representation from
6 the attorney general's office, Russell Hildredge, who is
7 here in the office. I think Russell would like an
8 opportunity to say a word or two.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you.

10 Hi, Russell. Way back there. We need binoculars.

11 MR. HILDREDGE: I just want to echo Mr. Jones'
12 comments. I've worked on a lot of cleanup sites over the
13 years and this has been -- this has got to be some kind of
14 record. I mean, if you look at what that thing looked like
15 before it caught on fire and you go out there today, it's
16 amazing. These guys have done a fantastic job in a very
17 short period of time, and Mr. Jones is right to commend
18 them.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you for
20 coming down and letting us know that you feel that way too,
21 Russell. We're real proud of our staff.

22 MR. HILDREDGE: These guys have done fantastic
23 work.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you very
25 much again. Thank you.

1 MS. WALZ: I would like to note that because I
2 will be unavailable next week, Mr. Hildredge will be sitting
3 as your attorney general representative.

4 BOARD CHAIR MOULTON-PATTERSON: Oh, great. Thank
5 you. We'll miss you, but we'll be happy to have Russell.

6 BOARD MEMBER JONES: Madam Chair.

7 BOARD CHAIR MOULTON-PATTERSON: Yes.

8 BOARD MEMBER JONES: I know I'm speaking for the
9 other board members, just that they're not as quick to the
10 microphone as I am, so I apologize.

11 In closed session, the work that Russell did with
12 this board, we were able to thank him for his effort in
13 closed session, but I think we're able to do that in public
14 too.

15 Russell had a daunting task in dealing with some
16 of these responsible parties and was successful, to the
17 amazement, I think, of six of us in some cases, and so he
18 probably needs to be commended in public too.

19 But that will be the last time, Russell.

20 (Applause.)

21 BOARD CHAIR MOULTON-PATTERSON: We really do
22 appreciate all your work, Russell. We know we're difficult
23 at times. Thank you.

24 Okay. Number 4, discussion of source reduction
25 and recycling element implementation and potential revisions

1 to the CWIMP. Senator Roberti is not here, I guess we can
2 use the acronym. Enforcement policy part 2.

3 MS. CARDOZA: Good afternoon. Good morning, it's
4 just there, Madam Chair, board members.

5 Catherine Cardoza with the board's Office of Local
6 Assistance, and I'm presenting today's briefing agenda item,
7 discussion of the proposed revisions to the Countywide
8 Integrated Waste Management Plan, or CWIMP, enforcement
9 policy part 2.

10 And actually the item is the same that was
11 presented to you last month in May, only this time the
12 difference is we've attached the revised policy.

13 We were requested to bring the item forward to you
14 today for additional discussion in case there had been any
15 recommendations from the SB 2202 synthesis working group, in
16 case any of those recommendations conflicted with the
17 proposed revisions to the policy.

18 There were no conflicts and in fact the working
19 group's recommendations support the proposed revision that
20 would emphasize both program implementation, as well as
21 diversion rate achievement.

22 Staff e-mailed the revised policy to jurisdictions
23 on June 8th and to date we have received one set of
24 comments, and one nod of approval, and we will be looking at
25 the comments and making revisions as appropriate.

1 And currently we do plan on bringing this policy
2 item forward for your consideration at the July board
3 meeting in Long Beach.

4 Are there any questions?

5 BOARD CHAIR MOULTON-PATTERSON: I don't see any
6 questions, but we'd like to congratulate you. We understand
7 you just got your master's degree.

8 MS. CARDOZA: Yes. Thank you.

9 BOARD CHAIR MOULTON-PATTERSON: Congratulations.
10 We're proud of you. Thank you.

11 Last item, oral update on SB 2202 working group
12 meetings held to discuss potential improvements to the
13 diversion rate measurement system.

14 Lorraine.

15 MS. VAN KEKERIX: For today's agenda item we have
16 two parts of the work that we've been doing on our review of
17 the diversion rate measurement system.

18 We have information on the types of analyses that
19 have been performed for the adjustment method, and I've got
20 to say this is the most technical part of the diversion rate
21 measurement.

22 And even though it's technical, I think that the
23 analyses show that there are a number of very interesting
24 questions that the board may wish to consider as we take a
25 look at this diversion rate measurement system.

1 Surjit Dhillon will be doing the presentation on
2 the adjustment method portion, and then Nancy Carr has been
3 working on the alternatives to the existing system and she
4 will handle the portion of the item on alternatives.

5 MR. DHILLON: Good afternoon. My name is Surjit
6 Dhillon. I'm from the Waste Analysis Branch.

7 The report to the Legislature is required by
8 Senate Bill 2202. It's due January 1, 2002.

9 The board is required to establish at a minimum
10 the working group to evaluate the disposal reporting system.

11 Board also required to submit a report with the
12 recommendations for changes and improvement by January 1st,
13 2002.

14 December 2000, the board directed staff to
15 evaluate the entire diversion rate measurement system.
16 Adjustment method is one of the components of the diversion
17 rate measurement system.

18 Structure for developing the report. Two working
19 groupings focused on improvements to the existing system.
20 Disposal reporting system consisting of 28 members;
21 adjustment method, 17 members.

22 Alternatives working group focus on alternatives
23 to the existing system, consists of 23 members.

24 Synthesis group combines solutions from all groups
25 to develop a workable, improved diversion rate measurement

1 system and synthesis group consists of 18 members.

2 The representation of working groups, cities and
3 counties throughout California, both urban and rural;
4 haulers, disposal facility operators, recyclers, consultants
5 and environmental and special interest groups, colleges and
6 universities.

7 Meetings were held in March, April and May, and
8 issues and potential solutions were identified at these
9 meetings.

10 And solutions include improvements to the existing
11 system with and without legislation. Solutions were
12 forwarded to the synthesis group in early June.

13 The recommendations from the working groups, board
14 staff, will be included in a draft report in July 2001.
15 That would be followed by a 30-day comment period on the
16 draft report, and the revised report will be in August 2001,
17 final report October 2001, for board consideration, and
18 final report due to the Legislature in January 2002.

19 Okay. First, I'll briefly go over how adjustment
20 method works. In summary, the adjustment method heavily
21 relies on accurate base year generation amount, it takes
22 advantage of the strong correlation between the waste
23 generation and population employment and inflation-adjusted
24 taxable sales.

25 Estimates of residential waste generation

1 differently than nonresidential waste generation.

2 Adds the residential and nonresidential estimates
3 to get total report year waste generation.

4 And once we have an estimated report year
5 generation amount, the next step is to compare it to the
6 fourth year disposal.

7 Estimating nonresidential change. Imagine, 1990
8 base year waste generation and two big piles. One is
9 residential, and the other nonresidential. We need to
10 separately estimate the size of each pile nine years later,
11 and then add them to get estimated 1999 waste generation.

12 Nonresidential waste generation changes, estimated
13 by using measures of employment and real taxable sales and
14 inflation-adjusted taxable sales.

15 Why? Because more employment means more garbage,
16 and more stuff sold also means more garbage.

17 Each measure is weighted equally. For example, if
18 employment and taxable sales double, then the economic
19 change ratio is two, or 200 percent. We divide the sum of
20 the employment and taxable sales ratios by two to equally
21 weight employment and taxable sales.

22 The estimating residential change. The return to
23 our imaginary 1990 base year waste generation, divided into
24 two big piles, let's focus on the residential pile and
25 estimate its size in 1999. The residential waste generation

1 change is estimated by using population change equally
2 weighted with our economic change ratio. Why? Because
3 while economic growth means more residential garbage,
4 population growth also means more residential garbage.

5 Continuing with our example, if population
6 doubles, and our economic change ratio is two, then our
7 demographic change ratio is two. We divide the sum of the
8 population and economic change ratios by two to equally
9 weight population and economic change.

10 We started by looking at possible sources of
11 estimated error in the diversion rate by using our existing
12 adjustment method.

13 The adjustment method relies on accurate base year
14 generation amount. Let's examine the base year age
15 distribution for all jurisdictions.

16 The vast majority of jurisdictions, 321 to be
17 exact, have 1990 base years. And an additional 38
18 jurisdictions have 1991 base years. The remaining 85
19 jurisdictions have base years ranging from 1 in 1993 to 45
20 in 1998, to a handful in 1999. We expect there will be
21 additional new base years coming to the board in the next
22 several months.

23 We need to keep in mind that the original
24 adjustment method statistical analysis only looked at
25 jurisdictions with residential and non-residential change

1 between 2 percent and 14 percent. Therefore, it needs to be
2 stressed that the accuracy of the adjustment method has not
3 been tested for jurisdictions with growth rates beyond 14
4 percent.

5 This chart shows non-residential adjustment
6 factors for jurisdictions within 1990 base year, and in 1999
7 report year.

8 The area between the two vertical heavy black
9 lines indicate the growth or decline as 14 percent or less.
10 We have no data showing how accurate the non-residential
11 adjustment factors are for jurisdictions with growth greater
12 than 1.14. Most of the jurisdictions have non-residential
13 adjustment factors greater than 1.14, indicating
14 non-residential growth rates greater than 14 percent.

15 This chart shows residential adjustment factors
16 for the same set of jurisdictions with 1990 base years for
17 fourth year 1999. Again, most jurisdictions clearly are
18 outside the vertical heavy black lines, and show growth as
19 more than 14 percent. Adjustment method accuracy has not
20 been tested.

21 A study done in 1997 showed that in some cases
22 smaller jurisdictions could potentially have up to 30
23 percent error in their disposal reporting system amount.

24 This slide shows data from a 1997 measurement
25 accuracy study on disposal reporting error. The disposal

1 tonnage data was collected at Riverside County landfills
2 every day for a year. Actual annual tonnage disposed was
3 compared to the annual data extrapolated from one week per
4 quarter data. The horizontal or the X axis shows
5 jurisdiction size in terms of actual disposal tons while the
6 vertical or Y axis shows the potential percentage error if
7 only the week-long quarterly survey data were used. The SB
8 2202 DRS working group has also looked at this issue.

9 There's a similar slide also from Riverside
10 County, but for reporting year 2000. You can see that the
11 potential percentage error is significantly less now.
12 However, the potential error is still greater for smaller
13 jurisdictions.

14 If this data is representative of all the years'
15 data, the potential for small jurisdiction diversion rate
16 estimate error is significant.

17 However, only one county has supplied us with this
18 data and we cannot say it is the statewide result.

19 We also looked at the range of possible diversion
20 rates using board default adjustment factors. We calculated
21 this range using a combination of factors that maximizes or
22 gives the highest diversion rate estimate than using the
23 combination that minimizes or gives the lowest diversion
24 rate estimate.

25 Remember, this is based on CIWMB default

1 adjustment factors, so it is by no means the absolute range,
2 and does not reflect information submitted in jurisdiction
3 reports to the board.

4 We found that smaller jurisdictions tend to have a
5 greater range of maximized versus minimized diversion rate
6 estimates.

7 This slide shows the range of differences between
8 the 1999 maximized and minimized calculated diversion rates
9 by population size represented on the horizontal axis.
10 Smaller jurisdictions, those with less than 100,000
11 residents, have more spread than larger jurisdictions. Does
12 this indicate greater error for smaller jurisdictions?
13 Possibly.

14 So this raises the question what level of
15 measurement is appropriate for jurisdictions to use, county
16 or jurisdiction? County level is more accurate level for
17 measuring the factor. Jurisdictional level data may be more
18 representative if the jurisdiction is different from the
19 county as a whole.

20 If the individual percentage change values for
21 factors are not approximately the same, that is unbalanced,
22 then the nature of the production of the solid waste may
23 have changed and the base year may be inaccurate.

24 This chart shows the disparity in individual
25 adjustment factor growth rates between the base year and

1 1999. The maroon bars represent the number of jurisdictions
2 with relatively low differences between the factor with the
3 greatest change, and the one with the least change. The
4 blue bars represent jurisdictions with relatively high
5 differences. Jurisdictions with older base years show
6 greater potential for unbalanced change than jurisdictions
7 with newer base years.

8 Okay. What kind of conclusions can we draw from
9 this?

10 Base year age may be a factor in diversion rate
11 estimate error.

12 Our adjustment method accuracy is not demonstrated
13 for growth over 14 percent.

14 Unbalanced change in adjustment factors may be
15 more likely for jurisdictions with older base years.

16 Changes in the nature of the solid waste
17 production should be considered.

18 Jurisdiction size may be a factor in diversion
19 rate estimate error.

20 Disposal reporting system data may have
21 significant error for small jurisdictions.

22 Difference between maximized and minimized
23 diversion rate is greater for smaller jurisdictions.

24 Unbalanced change in adjustment factors should be
25 further investigated.

1 Unbalanced change could indicate significant
2 change in the nature of the production of solid waste.

3 County level factors do not reflect the
4 jurisdiction's demographic and economic growth.

5 Before we look into impacts of using alternative
6 adjustment factors, we should review the sources for the
7 existing default adjustment factors.

8 Population, the source for population is
9 California Department of Finance. Source for employment is
10 California Employment Development Department. Taxable sales
11 is California Board of Equalization.

12 A jurisdiction may use default countywide- or
13 jurisdiction-specific factors supplied by the board.

14 Alternative factors from independent third-party
15 sources may also be used.

16 Each factor must be from the same source and use
17 the same method for both years.

18 BOARD MEMBER JONES: Excuse me. Both years being
19 1990 and whatever this year is?

20 MR. DHILLON: Yeah. The base year and the report
21 year.

22 We analyzed the impacts of other available
23 alternative employment factors on jurisdictions' diversion
24 rates.

25 First, we compared diversion rate impact using the

1 employment development industry data versus their labor
2 force data. The diversion rate impact was plus or minus
3 three percent or more for about nine percent of the
4 jurisdictions.

5 Of the 35 jurisdictions with a diversion rate
6 difference of plus or minus three percent or more, 60
7 percent have small disposal tons, and about 54 percent have
8 a small population.

9 Then we compared the diversion rate impact of
10 using federal industry employment data versus the EDD labor
11 force data. The diversion rate impact was plus or minus
12 three percent or more, or about ten percent of the
13 jurisdictions.

14 Of the 40 jurisdictions with a diversion rate
15 difference of plus or minus three percent or more, 50
16 percent have small disposal tons and about 45 have small
17 population.

18 The next thing we looked at was do CIWMB estimates
19 of fourth quarter taxable sales add error to adjustment
20 method estimates of waste generation and the diversion rate.

21 Board of Equalization fourth quarter data is
22 usually not available in time for filing of the annual
23 reports, which are due to the board by August 1st every
24 year. So board staff estimates fourth quarter taxable sales
25 data and publishes it on the CIWMB Web site for

1 jurisdictional use.

2 In order to determine the impact of this estimate,
3 we compared the diversion rates calculated by using the
4 CIWMB taxable sales estimate versus the final DOE taxable
5 sales estimate amounts.

6 The 1999 diversion rate impact was plus or minus
7 three percent or more for about one percent of the
8 jurisdictions.

9 Adjustment method working group recommendations.

10 Some of the common themes in the adjustment method
11 working group recommendations are allow more flexibility in
12 data used for adjustment factors. Establish a list of
13 circumstances that impact accuracy of adjustment method and
14 diversion rates. Diversion rates are an indicator. Board
15 needs to look at the program implementation as well as
16 diversion rates. And more detail on the recommendations
17 handout.

18 Staff and synthesis group are working to combine
19 similar recommendations and eliminate overlaps. More
20 specific recommendations are on the different method
21 recommendation charts.

22 And I'd be happy to answer any questions at this
23 point.

24 BOARD MEMBER JONES: Linda had to go a meeting.

25 Does anybody have any questions?

1 I have just one.

2 Has any discussion on the outliers like if you
3 look at a city that's got an auto mall, it's got an
4 increased sales tax, but it's not going to generate waste.
5 It's not going to generate very much waste. But yet it can
6 drive that number up. Have we given any thought to
7 potentially looking at some of those operations as outliers?

8 MR. DHILLON: Yes, we have. We're developing,
9 like I mentioned, we're developing a list of red flags and
10 that's part of the recommendations, things like that that
11 would fall into that.

12 BOARD MEMBER JONES: And then just one more real
13 quickly. You compared like the working folks between the
14 federal and the EDD and it was pretty close, couple of
15 percent one way or another?

16 MR. DHILLON: Right.

17 BOARD MEMBER JONES: Do you have the ability,
18 since it's the boards program that is used to -- they plug
19 numbers in and they get their stuff, you've got three areas.
20 You've got population, you've got sales tax and you've got
21 the number of jobs.

22 Has anybody ever looked at, do a comparison doing
23 those one at a time, what would the adjustment factor be
24 based on population, what would it be based on sales tax,
25 what would it be based on work, to see if one of them had a,

1 you know, a big impact on the others? Is there any value in
2 at least doing that as a review, so you might have an area
3 to look at that to figure out what's driving that number?

4 MS. VAN KEKERIX: That was done in the original
5 adjustment method working group development. And what they
6 found was that those were the factors that we had data for
7 all the cities on that did drive what was happening with
8 explaining disposal numbers. That's what they used at the
9 time as a proxy for waste generation, because we didn't have
10 disposal plus diversion.

11 But in the early years there was much more
12 disposal and fewer diversion programs in place.

13 So those came up as the four things that explained
14 the most in terms of diversion.

15 The adjustment method working group did start to
16 look at whether we could do that kind of analysis again.

17 And one of the issues that we have is since you're
18 going to be comparing this to generation, what data do we
19 have for generation. We have disposal numbers, but
20 generation is disposal plus diversion, and without those
21 diversion numbers it's a very complicated process to figure
22 out what we can do to examine how much those factors play a
23 part today when there is so much diversion and there's
24 relatively less disposal.

25 So we're continuing to work on that. And one of

1 the recommendations that the working group had was that the
2 board continue to investigate further trying to use various
3 statistical techniques, whether that is the correct set of
4 factors, and how those might be changed based on that
5 analysis.

6 But it's a very complicated process because we
7 don't have diversion data to compare it to.

8 BOARD MEMBER JONES: Got you. Thank you.

9 Members, anybody else?

10 No. Okay.

11 So we got the second piece now?

12 Thank you.

13 MS. CARR: I apologize. I don't have any charts
14 or graphs to show you to today, but hopefully we'll cover
15 everything here today.

16 Alternatives to the present measurement system are
17 ideas that go beyond adjustment that can be made to the
18 existing system.

19 The alternatives group's purpose, we discussed at
20 our meetings, was to develop recommendations to forward to
21 the synthesis group on how to improve the measurement system
22 to make it more accurate, more flexible, and more conducive
23 to shifting resources from measurement to program
24 implementation.

25 And our group came up with a couple of mission

1 statements at our first meeting.

2 The first one was to consider alternatives to the
3 way that the state determines compliance with AB 939.

4 The second one was to consider alternative ways to
5 meet the goals of AB 939.

6 And we developed evaluation criteria to help us
7 evaluate the ideas that came up. And there are ten of them
8 and they are listed in the order of importance that the
9 group decided.

10 The first one was does the idea meet the goals and
11 spirit of AB 939.

12 Are reasonable resources required to implement the
13 idea.

14 Does it fall within the purview of the
15 alternatives group or would it be more appropriately
16 addressed by the DRS group or the adjustment method working
17 group.

18 What would be the ease of implementation of the
19 idea logistically on the ground.

20 Is there flexibility in the implementation.

21 Does the idea help our ability to measure
22 progress.

23 What would the costs involved be to implement the
24 idea.

25 Is it compatible with existing efforts.

1 How feasible is it politically.

2 And, finally, does it require minimum regulatory
3 and statutory changes.

4 And the alternatives generally fell into two
5 categories. Those directly addressing waste measurement and
6 those less tied to measurement and more focused on achieving
7 the goals of greater diversion.

8 And both of these categories were equally
9 important during the whole process.

10 And like the other two working groups, we had
11 three meetings.

12 Our first meeting was March 8th. At that meeting
13 we reviewed the alternatives that were developed and
14 discussed in the January issue paper that were talked about
15 at the public meetings in January. And at our first meeting
16 we also added new ideas to our list that were proposed by
17 the working group members.

18 Our second meeting was April 4th, and prior to
19 that meeting staff worked on fleshing out the ideas that had
20 been identified at the first meeting and developed
21 background material to help the working group members learn
22 more about the ideas to help them finally make their
23 decisions on them.

24 So at the second meeting we discussed those
25 alternatives in depth.

1 And our final meeting was May 15th and prior to
2 that final meeting the working group members themselves
3 divided the ideas amongst themselves and developed further
4 background information to help them evaluate and vote on
5 those ideas.

6 And I think our group should be commended for the
7 work that they did outside the meeting, because they all
8 really did do a good amount of work on this.

9 I just wanted to give you a couple of examples of
10 the measurement alternatives.

11 One was to investigate the use of disposal data
12 alone as an alternative way to demonstrate compliance. So
13 this would involve using disposal data rather than
14 generation data. For example, we could develop specific
15 disposal rates like per capita rates or per employee rates
16 or specific amounts allowed to be disposed by jurisdictions.

17 The strength of using disposal data alone is that
18 it's a real measurement. We aren't calculating generation
19 and it's a more real number or at least some people think it
20 is.

21 And there are several ways that a
22 disposal-based-only system could be developed, and they have
23 their strengths and weaknesses, and the group thought that
24 that was worth further research to develop those ideas.

25 Another example of a measurement alternative was

1 to increase incentives and decrease disincentives for
2 regional agencies so that we can take advantage of the
3 increased accuracy and measurement at the regional level.

4 As Surjit talked about, the small jurisdictions
5 tend to have more problems with the measurement system, and
6 if you can increase the size or increase things to the
7 regional level, you can get increased accuracy.

8 And then a couple of examples of the other
9 alternatives less directly related to measurement. Some
10 were specific recommendations to increase market development
11 activities. There were five specific ideas brought forward
12 by the group.

13 Another idea was to expand the responsibility for
14 meeting AB 939 goals beyond jurisdictions to generators such
15 as schools and also producers of the difficult-to-handle
16 waste.

17 And the recommendations and the discussion
18 throughout kind of fell into some general themes.

19 One of them was that in addition to the current
20 measurement system to provide alternative ways for
21 jurisdictions to demonstrate compliance.

22 Another one was to focus on and shift resources to
23 more program implementation and less bean counting, as the
24 group called it.

25 Another idea that came forward was that markets

1 are very important.

2 And some further themes, rurals should be treated
3 differently because they have inherent measurement problems,
4 low waste amounts and typically they have limited resources.

5 Regional measurement approaches should be
6 promoted.

7 For some alternatives it's not clear if they would
8 improve the system, but they are worth researching further.

9 And finally some proposed alternatives did not
10 clearly improve the existing system and were not forwarded
11 by the alternatives group on to the synthesis group.

12 In summary, the group discussed 31 different ideas
13 throughout the process. 15 of those they forwarded to the
14 synthesis group and five of those that were forwarded had
15 similar ideas to solutions discussed by the DRS group.

16 And finally we're going to bring some future
17 presentations to talk more about the process. Our synthesis
18 group meetings are going on this month, so we'll bring that
19 forward to tell you about. And also we'll also bring
20 presentation on the draft report to the board.

21 Are there any questions?

22 BOARD MEMBER JONES: Thanks, Nancy.

23 We have one -- oh, go ahead, Lorraine. We do have
24 one speaker slip.

25 MS. VAN KEKERIX: I just wanted to say that

1 amongst the attachments were also the recommendations from
2 the disposal reporting system working group, since they were
3 asked to include those as attachments, so if there are any
4 specific questions on those, we'd be happy to answer them at
5 this time as well.

6 BOARD MEMBER JONES: I don't hear any questions,
7 but it looks like this was a very successful process so far,
8 project so far.

9 Jim Hemminger, from ESJPA.

10 MR. HEMMINGER: Thank you. I know we're running
11 late, but I did -- as we were -- I think there aren't people
12 in the audience other than waste board staff who actually
13 went and participated in many of the working group meetings
14 and were actually fortunate enough to be included as a part
15 of the synthesis group.

16 Usually I speak pretty narrowly on the rural
17 interests, but I somewhat presumptively I think today can
18 speak in behalf of, boy, over 50 some folks in the industry
19 and environmental groups that participated in the process
20 and really recognize and thank staff for their efforts here.

21 Lorraine and Nancy was my working group chair.

22 They made the process look easy in the
23 presentation, but it's been -- it's very interesting that by
24 design the working groups are made up of disparate interest
25 groups with conflicting and often strong opinions, and the

1 Waste Board staff was given the task of trying to forge
2 consensus to find differences of opinion and move this
3 forward.

4 I think everybody who participated in this process
5 certainly acknowledge their efforts.

6 We don't know what recommendations yet are going
7 to be coming through the synthesis group. Frankly, we don't
8 know if Waste Board staff is going to agree with the
9 recommendations. And we certainly don't know if the Waste
10 Board is going to agree with either.

11 But I did want to express appreciation on part of
12 the process, acknowledge staff effort, and we encourage the
13 board, when the report does come through, to look at the
14 recommendations and hopefully move this forward.

15 That was all. Thank you.

16 BOARD MEMBER JONES: Thank you.

17 Is there anybody else?

18 Members, anything?

19 No.

20 Thank you all. Nice productive briefing.

21 Appreciate it.

22 (Thereupon the meeting was adjourned
23 at 12:33 p.m.)

24

25

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